

Honorable Robert S. Lasnik  
Trial Date: Not Set

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALEXANDRA TABER, ALEXANDRA  
TABER AS GUARDIAN OF LT

NO. NO. C20-1633RSL

PLAINTIFF,

vs.

**SECOND AMENDED  
COMPLAINT**

(Jury Trial Requested)

CASCADE DESIGNS, INCORPORATED,  
DAVID BURROUGHS, JOHN  
BURROUGHS, JOHN GEVAERT, JAMES  
COTTER, ERIC HOBBS, STEVE  
MCCLURE, HARRY ROSS, JANE/JOHN  
DOES 1 THROUGH 10, AND THE  
MARITAL COMMUNITY OF EACH NON-  
BUSINESS DEFENDANT, CASCADE  
DESIGNS, INC. OPEN ACCESS PLUS IN-  
NETWORK MEDICAL BENEFITS,  
CASCADE DESIGNS, INC. WELFARE  
BENEFITS PLAN

DEFENDANTS.

**I. PARTIES**

Plaintiff Alexandra Taber

SECOND AMENDED COMPLAINT-1  
NO. C20-1633RSL

THE BARTON LAW FIRM  
1567 Highlands Dr NE Ste 110-34  
Issaquah, WA 98029-6245  
(425) 243-7960 TheBartonLawFirm@GMail.com

1.1 From before January 1, 2017 to July 17, 2019, Defendant CDI, Incorporated (“**CDI**”) employed Plaintiff Alexandra Taber (“**Taber**”).

1.2 On July 17, 2019, Taber was a plan participant within the meaning of 29 U.S.C.A. § 1002(7) in the healthcare plan entitled “Cascade Designs, Inc. Open Access Plus In-Network Medical Benefits” (the “**Healthcare Plan**”).

Plaintiff Alexandra Taber as Guardian of LT

1.3 Taber is the mother and legal guardian of LT, who is a minor.

1.4 On July 17, 2019, LT was a plan participant in the Healthcare Plan within the meaning of 29 U.S.C.A. § 1002(7).

Cascade Designs, Incorporated

1.5 Cascade Designs, Incorporated registered as a corporation with the Washington Secretary of State on April 24, 1972 and was so incorporated until the present.

1.6 From April 24, 1972 to the present, CDI operated under UBI number 600 069 796, was located at 4000 1st Ave S, Seattle, WA 98134-2301, and had a mailing address at 4000 1st Ave S, Seattle, WA 98134-2301.

1.7 From June 1, 2017 to the present, CDI conducted business at 4000 1st Ave S, Seattle, WA 98134-2301.

1.8 From June 1, 2017 to the present, CDI registered with the Washington Secretary of State Defendant David Burroughs at 4000 1st Ave S, Seattle, WA 98134-2301 with the same mailing address.

1.9 From July 1, 2019 to the present, CDI was the plan sponsor within the meaning of 29 U.S.C.A. § 1002(16)(B) of in the Healthcare Plan

David Burroughs

1.13 From June 1, 2017 to the present, Defendant David Burroughs was the President of CDI.

1.15 From June 1, 2017 to the present, Defendant David Burroughs served as a governor of CDI.

1.16 From June 1, 2017 to the present, Defendant David Burroughs had authority to make financial decisions for CDI.

1.17 From June 1, 2017 to the present, Defendant David Burroughs had authority to decide whether to pay wages to CDI's employees.

1.18 From June 1, 2017 to the present, Defendant David Burroughs had authority to settle all lawsuits against CDI.

## John Burroughs

1.19 From June 1, 2017 to the present, Defendant John Burroughs was the Chairman of the Board at CDI.

1           1.20   From June 1, 2017 to the present, Defendant John Burroughs was the President of  
2 CDI.

3           1.21   From June 1, 2017 to the present, Defendant John Burroughs was an owner and  
4 shareholder.

5           1.22   From June 1, 2017 to the present, Defendant John Burroughs served as a governor  
6 of CDI.

7           1.23   From June 1, 2017 to the present, Defendant John Burroughs had authority to  
8 make financial decisions for CDI.

9           1.24   From June 1, 2017 to the present, Defendant John Burroughs had authority to  
10 decide whether to pay wages to CDI's employees.

11           1.25   From June 1, 2017 to the present, Defendant John Burroughs had authority to  
12 settle all lawsuits against CDI.

13           1.26   Defendant John Burroughs resides at [REDACTED]  
14 [REDACTED].

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18                           John Gevaert

19           1.27   From June 1, 2017 to the present, Defendant John Gevaert was a member of the  
20 board of governors of CDI.

21           1.28   From June 1, 2017 to the present, Defendant John Gevaert was the Treasurer of  
22 CDI.

23           1.29   From June 1, 2017 to the present, Defendant John Gevaert was an owner and  
24 shareholder of CDI.

25           1.30   From June 1, 2017 to the present, Defendant John Gevaert served as a governor  
26 of CDI.

1           1.31    From June 1, 2017 to the present, Defendant John Gevaert had authority to make  
2 financial decisions for CDI.

3           1.32    From June 1, 2017 to the present, Defendant John Gevaert had authority to decide  
4 whether to pay wages to CDI's employees.  
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6           1.33    From June 1, 2017 to the present, Defendant John Gevaert had authority to settle  
7 all lawsuits against CDI.

8           1.34    Defendant John Gevaert resides at [REDACTED].  
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10                               James Cotter

11           1.35    From June 1, 2017 to the present, Defendant James Cotter was the Chairman of  
12 the Board of CDI.

13           1.36    From June 1, 2017 to the present, Defendant James Cotter was an officer of CDI.

14           1.37    From June 1, 2017 to the present, Defendant James Cotter was an owner and  
15 shareholder of CDI.  
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17           1.38    From June 1, 2017 to the present, Defendant James Cotter served as a governor  
18 of CDI.

19           1.39    From June 1, 2017 to the present, Defendant James Cotter had authority to make  
20 financial decisions for CDI.  
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22           1.40    From June 1, 2017 to the present, Defendant James Cotter had authority to decide  
23 whether to pay wages to CDI's employees.

24           1.41    From June 1, 2017 to the present, Defendant James Cotter had authority to settle  
25 all lawsuits against CDI.  
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27                               Erik Hobbs  
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1           1.42   From June 1, 2017 to the present, Defendant Eric Hobbs was a member of the  
2 board of governors of CDI.

3           1.43   From June 1, 2017 to the present, Defendant Eric Hobbs was a corporate secretary  
4 of CDI.  
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6           1.44   From June 1, 2017 to the present, Defendant Eric Hobbs was an owner and  
7 shareholder of CDI.

8           1.45   From June 1, 2017 to the present, Defendant Eric Hobbs served as a governor of  
9 CDI.  
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11           1.46   From June 1, 2017 to the present, Defendant Eric Hobbs served as the Corporate  
12 Counsel of CDI

13           1.47   From June 1, 2017 to the present, Defendant Eric Hobbs had authority to make  
14 financial decisions for CDI.  
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16           1.48   From June 1, 2017 to the present, Defendant Eric Hobbs had authority to decide  
17 whether to pay wages to CDI's employees.

18           1.49   From June 1, 2017 to the present, Defendant Eric Hobbs had authority to settle all  
19 lawsuits against CDI.  
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21           1.50   Defendant Eric Hobbs resides at [REDACTED]

22                               Steve McClure

23           1.51   From June 1, 2017 to the present, Defendant Steve McClure was a member of the  
24 board of directors of CDI.

25           1.52   From June 1, 2017 to the present, Defendant Steve McClure was the Chief  
26 Financial Officer of CDI.  
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1           1.53    From June 1, 2017 to the present, Defendant Steve McClure was an owner and  
2 shareholder of CDI.

3           1.54    From June 1, 2017 to the present, Defendant Steve McClure served as a governor  
4 of CDI.  
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6           1.55    From June 1, 2017 to the present, Defendant Steve McClure had authority to make  
7 financial decisions for CDI.

8           1.56    From June 1, 2017 to the present, Defendant Steve McClure had authority to  
9 decide whether to pay wages to CDI's employees.  
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11          1.57    From June 1, 2017 to the present, Defendant Steve McClure had authority to settle  
12 all lawsuits against CDI.

13          1.58    Defendant Steve McClure resides at [REDACTED].

14          1.59    Defendant Steve McClure resides at [REDACTED]  
15 [REDACTED].  
16

17                               Harry Ross

18          1.60    From June 1, 2017 to the present, Defendant Harry Ross was a member of the  
19 board of directors of CDI.  
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21          1.61    From June 1, 2017 to the present, Defendant Harry Ross the Human Resources  
22 Director at CDI.

23          1.62    From June 1, 2017 to the present, Defendant Harry Ross was an owner and  
24 shareholder of CDI.

25          1.63    From June 1, 2017 to the present, Defendant Harry Ross served as a governor of  
26 CDI.  
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1           1.64    From June 1, 2017 to the present, Defendant Harry Ross had authority to make  
2 financial decisions for CDI.

3           1.65    From June 1, 2017 to the present, Defendant Harry Ross had authority to decide  
4 whether to pay wages to CDI's employees.  
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6           1.66    From June 1, 2017 to the present, Defendant Harry Ross had authority to settle all  
7 lawsuits against CDI.

8                               John/Jane Does 1 through 10

9           1.67    From June 1, 2017 to the present, Defendants Jane/John Doe 1 through 10 had  
10 authority to make financial decisions for CDI.  
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12           1.68    From June 1, 2017 to the present, Defendants Jane/John Doe 1 through 10 had  
13 authority to decide whether to pay amounts CDI's employees claimed as wages.

14           1.69    From June 1, 2017 to the present, Defendants Jane/John Doe 1 through 10 had  
15 authority to settle all lawsuits against CDI.  
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17                               Cascade Designs, Inc. Open Access Plus In-Network Medical Benefits

18           1.70    From July 1, 2019 to the present, Cascade Designs, Inc. Open Access Plus In-  
19 Network Medical Benefits (the "**Healthcare Plan**") was the healthcare plan that CDI offered its  
20 employees in Washington State.  
21

22           1.71    From July 1, 2019 to the present, the Healthcare Plan was the plan sponsor within  
23 the meaning of 29 U.S.C.A. § 1002(16)(B) of in the Healthcare Plan.

24           1.72    From July 1, 2019 to the present, the Healthcare Plan was the plan administrator  
25 within the meaning of 29 U.S.C.A. § 1002(16)(A) of in the Healthcare Plan.  
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27           1.73    From July 1, 2019 to the present, the Healthcare Plan exercised discretionary  
28 authority or control over the management of the Healthcare Plan.



Cascade Designs, Inc Welfare Benefits Plan

1.74 From July 1, 2019 to the present Cascade Designs, Inc Welfare Benefits Plan (the “**Benefits Plan**”) was a benefit plan that CDI offered its employees in Washington State.

1.75 From July 1, 2019 to the present, the Benefits Plan was the plan sponsor within the meaning of 29 U.S.C.A. § 1002(16)(B) of in the Healthcare Plan.

1.76 From July 1, 2019 to the present, the Benefits Plan was the plan administrator within the meaning of 29 U.S.C.A. § 1002(16)(A) of in the Healthcare Plan.

1.77 From July 1, 2019 to the present, the Benefits Plan exercised discretionary authority or control over the management of the Healthcare Plan.

1.78 From July 1, 2019 to the present, the Benefits Plan was governed by a plan description entitled “Cascade Designs, Inc. Welfare Benefits Plan and Summary Plan Description” (the “**Plan Description**”).

1.79 From July 1, 2019 to the present, the Benefits Plan identified itself in the Plan Description as the plan sponsor.

1.80 From July 1, 2019 to the present, the Benefits Plan identified itself in the Plan Description as the plan administrator.

1.81 From July 1, 2019 to the present, the Benefits Plan identified as its “Agent for Service of Legal Process” in the Plan Description the “Financial Controller” of the Benefits Plan with an address for legal service at 4000 1st Ave. S. Seattle, WA 98134-2301.

1.82 From July 1, 2019 to the present, the Benefits Plan identified as its “Agent for Service of Legal Process” in the Plan Description the “Plan Administrator” of the Benefits Plan with an address for legal service at 4000 1st Ave. S. Seattle, WA 98134-2301.

1.83

## II. JURISDICTION AND VENUE

2.1 CDI does business in King County, Washington.

2.2 CDI has offices located in King County, Washington.

2.3 CDI has a sales room in King County, Washington.

2.4 CDI produces products in King County, Washington.

2.5 Defendants David Burroughs, John Burroughs, John Gevaert, James Cotter, Eric Hobbs, Steve McClure, and Harry Ross worked for CDI in King County, Washington.

2.6 Plaintiff Taber resides in King County, Washington.

2.7 Taber worked for CDI in King County, Washington.

2.8 Taber and Alexandra Taber as guardian of LT have standing to bring this action under 29 U.S.C.A. § 1132(a)(1)(A) and (B), 29 U.S.C.A. § 1132(a)(3), and federal common law established pursuant to ERISA.

2.9 The COBRA-notice claim in this action arises under the Employee Retirement Income Security Act of 1974 as amended, 29 U.S.C.A. § 1001 et seq. (“ERISA”), specifically including the Consolidated Omnibus Budget Reconciliation Act, 29 U.S.C.A. §§ 1161 et seq. (“COBRA”) and federal common law created and existing pursuant to ERISA.

2.10 Jurisdiction over this action is based upon 29 U.S.C.A. § 1132(e)(1) and 28 U.S.C.A. § 1331 (federal question jurisdiction) and 28 U.S.C.A. § 1367 (supplemental jurisdiction).

2.11 Venue is proper in this Court pursuant to 29 U.S.C.A. § 1132(e)(2) and 28 U.S.C.A. 1391(b) because the employee benefit plan is administered in this District, the breaches of duty took place in this District, and Defendant Cascade Design, Inc. has its main office in this District, and Plaintiff worked for Defendant Cascade Design, Inc. in this District.

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**III. SERVICE**

Service on CDI

3.1 A person who was not Taber delivered a copy of the Summons in this lawsuit and this Complaint to the president or other head of CDI, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of CDI, registered agent, secretary, cashier or managing agent.

3.2 CDI has been served with the Summons and Complaint in this lawsuit.

Service on Defendant David Burroughs

3.3 A person who was not Taber delivered a copy of the Summons in this lawsuit and this Complaint to Defendant David Burroughs.

3.4 Defendant David Burroughs has been served with the Summons and Complaint in this lawsuit.

Service on Defendant John Burroughs

3.5 A person who was not Taber delivered a copy of the Summons in this lawsuit and this Complaint to Defendant John Burroughs.

3.6 Defendant John Burroughs has been served with the Summons and Complaint in this lawsuit.

Service on Defendant John Gevaert

3.7 A person who was not Taber delivered a copy of the Summons in this lawsuit and this Complaint to Defendant John Gevaert.

3.8 Defendant John Gevaert has been served with the Summons and Complaint in this lawsuit.

Service on Defendant James Cotter

1           3.9     A person who was not Taber delivered a copy of the Summons in this lawsuit and  
2 this Complaint to Defendant James Cotter.

3           3.10    Defendant James Cotter has been served with the Summons and Complaint in this  
4 lawsuit.  
5

6                               Service on Defendant Eric Hobbs

7           3.11    A person who was not Taber delivered a copy of the Summons in this lawsuit and  
8 this Complaint to Defendant Eric Hobbs.

9           3.12    Defendant Eric Hobbs has been served with the Summons and Complaint in this  
10 lawsuit.  
11

12                              Service on Defendant Steve McClure

13           3.13    A person who was not Taber delivered a copy of the Summons in this lawsuit and  
14 this Complaint to Defendant Steve McClure.

15           3.14    Defendant Steve McClure has been served with the Summons and Complaint in  
16 this lawsuit.  
17

18                              Service on Defendant Harry Ross

19           3.15    A person who was not Taber delivered a copy of the Summons in this lawsuit and  
20 this Complaint to Defendant Harry Ross.

21           3.16    Defendant Harry Ross has been served with the Summons and Complaint in this  
22 lawsuit.  
23

24                              Service on the Defendant Healthcare Plan

25           3.17    A person who was not Taber delivered a copy of the Summons in this lawsuit and  
26 this Complaint to the president or other head of an administrator of the Healthcare Plan, the  
27 registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or  
28

1 office assistant of the president or other head of the administrator, or the registered agent,  
2 secretary, cashier or managing agent of the administrator.

3 3.18 The service described immediately above constitutes service on the Healthcare  
4 Plan of the Summons and Complaint in this lawsuit.

5  
6 Service on the Defendant Benefit Plan

7 3.19 A person who was not Taber delivered a copy of the Summons in this lawsuit and  
8 this Complaint to president or other head of an administrator of the Benefit Plan, the registered  
9 agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office  
10 assistant of the president or other head of the administrator, or the registered agent, secretary,  
11 cashier or managing agent of the administrator.

12  
13 3.20 The service described immediately above constitutes service on the Healthcare  
14 Plan of the Summons and Complaint in this lawsuit.

15  
16 Service on Defendant CDI as the Healthcare Plan Administrator

17 3.21 A person who was not Taber delivered a copy of the Summons in this lawsuit  
18 and this Complaint to president or other head of CDI in its capacity as the administrator of the  
19 Healthcare Plan, the registered agent, secretary, cashier or managing agent thereof or to the  
20 secretary, stenographer or office assistant of the president or other head of CDI in its capacity as  
21 the administrator, or the registered agent, secretary, cashier or managing agent of the  
22 administrator.

23  
24 3.22 The service described immediately above constitutes service on the Healthcare  
25 Plan of the Summons and Complaint in this lawsuit.

26  
27 Service on The Secretary of the Treasury and the Secretary of Labor

## CDI Failed to Pay Taber's 2017 Wages on The Payday

4.2 From August 3 to December 21, 2017, CDI deducted the amounts that Taber had instructed CDI to deduct from each wage payments (deductions hereinafter referred to as the **“wage deductions”**).

4.4 From August 3 to December 21, 2017, CDI kept the wage deductions for itself on the payday.

4.6 From August to December 2017, CDI had instructions from other CDI employees to deduct specific amounts of wages from each of those employee's wage payments and deposit each deduction into that employee's health savings account.

4.7 From August through December 2017, CDI deducted the amounts that other CDI employees had instructed CDI to deduct from each of their wage payments.

1           4.8     From August to December 2017, CDI did not deposit some of the wage  
2     deductions taken from other employees' wages into those employees' HSAs on the paydays when  
3     the deductions were taken.

4  
5                     CDI Issued False and Misleading Pay Records in 2017

6           4.9     CDI listed each of Taber's 2017 HSA contributions on the paystub CDI issued for  
7     the wage payment from which that deduction was taken.

8           4.10    CDI listed the purpose of each 2017 wage deductions on the paystub for that  
9     period next to the label "Hsa Ee" under the title "Deductions" and subtitle "this period."

10  
11           4.11    The amount listed next to the label "Hsa Ee" under the title "Deductions" and  
12     subtitle "this period" on each of Taber's 2017 paystubs was incorrect. CDI had not deposited the  
13     amount deducted into Taber's HSA on the payday when the wage deduction was taken. CDI had  
14     kept the deduction for itself.

15  
16           4.12    CDI listed the total amount that Taber had contributed to her HSA in 2017 up to  
17     that payday on each of Taber's 2017 paystubs next to the label "Hsa Ee" under the title  
18     "Deductions" and under the subtitle "year to date."

19           4.13    The amount listed next to the label "Hsa Ee" under the title "Deductions" and  
20     subtitle "year to date" on each of Taber's 2017 paystubs was incorrect. CDI had not deposited  
21     the "year to date" amount listed on each of the paystubs. CDI had kept the deductions for itself.

22  
23           4.14    Sometime before April 17, 2018, CDI issued to Taber a 2017 W-2 that stated CDI  
24     had deposited \$6,300 of employee contributions into Taber's HSA.

25           4.15    The 2017 W-2 referenced in the paragraph immediately above was incorrect. CDI  
26     had not paid or delivered the \$6,300 of 2017 wage deductions to Taber by April 17, 2018. CDI  
27     had kept the \$6,300 of wage deductions for itself  
28

CDI Failed to Pay 2017 Quarterly Employer Contributions

4.16 CDI had a duty under the HSA plan that CDI sponsored (hereinafter the “**HSA plan**”) to contribute \$300 of employer contributions into Taber’s HSA every quarter during Taber’s participation in the plan (hereinafter “**employer contributions**”).

4.17 Each quarterly employer contribution was due on a specified predetermined payday.

4.18 CDI had a duty under the HSA plan to make a \$300 employer contribution into Taber’s HSA on the employer-contribution payday for the third quarter of 2017.

4.19 CDI did not make the \$300 employer contribution into Taber’s HSA on the employer-contribution payday for the third quarter of 2017.

4.20 CDI had a duty under the HSA plan to make a \$300 employer contribution into Taber’s HSA on the employer-contribution payday for the fourth quarter of 2017.

4.21 CDI did not make the \$300 employer contribution into Taber’s HSA on the employer-contribution payday for the fourth quarter of 2017.

CDI Failed to Issue Pay Records for Employer Contributions

4.22 CDI did not issue Taber paystubs for employer contributions.

4.23 CDI did not issue other CDI employees paystubs for employer contributions.

4.24 CDI did not issue Taber a scheduled periodic statement that provided an accounting of employer contributions.

4.25 CDI did not issue other CDI employees a scheduled periodic statement that provided an accounting of employer contributions.

4.26 CDI did not issue Taber a record of any kind that provided an accounting of employer contributions other than an IRS form W-2.



4.28 CDI Human Resources Generalist / Payroll Specialist Julie Sarchett (hereinafter “**Sarchett**”) processed HSA employee contributions by transferring money from CDI’s account to CDI’s sponsored HSA's account.

4.30 In mid-December 2017, Taber told Sarchett that CDI had failed to deposit the 2017 third quarter employer contribution into Taber's HSA.

4.31 On that day in mid-December 2017 when Taber told Sarchett about the missing contributions, Sarchett responded that she would review Taber's HSA accounting and correct it if there was a problem.

4.32 Neither Sarchett nor anyone else at CDI deposited the missing contributions after Taber told Sarchett about the missing contributions and before the 2017 contribution deadline on April 17, 2018.

4.33 From January 1 to February 1, 2018, CDI had instructions from Taber to deduct a specific amount of wages from each of Taber's wage payments and deposit each deduction into Taber's HSA.

4.34 From January 1 to February 1, 2018, CDI deducted the amounts that Taber had instructed CDI to deduct from each wage payment.

1           4.35   From January 1 to February 1, 2018, CDI did not deposit the wage deductions  
2 into Taber's HSA on the paydays when the deductions were taken.

3           4.36   From January 1 to February 1, 2018, CDI kept the wage deductions for itself on  
4 the payday.  
5

6           4.37   From January 1 to February 1, 2018, CDI had taken \$2,125 in 2018 wage  
7 deductions that CDI had not deposited into Taber's HSA on the payday when the deduction was  
8 taken.  
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10                   CDI Continued Issuing False and Misleading Pay Records in 2018

11           4.38   From January 1 to February 1, 2018, CDI listed each of Taber's 2017 HSA  
12 contributions on the paystub CDI issued for the wage payment from which that deduction was  
13 taken.  
14

15           4.39   From January 1 to February 1, 2018, CDI listed the purpose of each 2017 wage  
16 deductions on the paystub for that period next to the label "Hsa Ee" under the title "Deductions"  
17 and subtitle "this period."

18           4.40   From January 1 to February 1, 2018, the amount listed next to the label "Hsa Ee"  
19 under the title "Deductions" and subtitle "this period" on each of Taber's paystubs was incorrect.  
20 CDI had not deposited the amount deducted into Taber's HSA on the payday when the wage  
21 deduction was taken. CDI had kept the deduction for itself.  
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23           4.41   From January 1 to February 1, 2018, CDI listed the total amount that Taber had  
24 contributed to her HSA in 2018 up to that payday on each of Taber's paystubs next to the label  
25 "Hsa Ee" under the title "Deductions" and under the subtitle "year to date."  
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27           4.42   From January 1 to February 1, 2018, the amount listed next to the label "Hsa Ee"  
28 under the title "Deductions" and subtitle "year to date" on each of Taber's paystubs was incorrect.

1 CDI had not deposited the “year to date” amount listed on each of the paystubs. CDI had kept  
2 the deductions for itself.

3 4.43 From January 1 to February 1, 2018, CDI issued no record to Taber of HSA  
4 contributions other than the bi-monthly paychecks and annual W-2 discussed herein above.

5  
6 CDI Failed to Comply with Taber’s Instructions to Deduct and Contribute \$500 to Her HSA on February  
7 15, 2018

8 4.44 Taber had instructed CDI to deduct and contribute \$500 to Taber’s HSA on  
9 February 15, 2018.

10 CDI Recorded a Nonexistent Deduction and Contribution on Taber’s February 15, 2018 Paystub

11 4.45 On February 15, 2018, CDI listed “\$500” on Taber’s paystub next to the label  
12 “Hsa Ee” under the title “Deductions” and subtitle “this period.”

13 4.46 On February 15, 2018, CDI did not deduct a \$500 amount for wage payment and  
14 did not deposit \$500 into Taber’s HSA. (The claimed February 15, 2018 \$500 withdrawal and  
15 deposit is hereinafter referred to as the “**nonexistent \$500 deposit.**”)

16 4.47 On February 15, 2018, CDI listed “\$2,625” next to the label “Hsa Ee” under the  
17 title “Deductions” and under the subtitle “year to date.”

18 4.48 The “\$2,625” amount that CDI listed on February 15, 2018 paystub included the  
19 nonexistent \$500 deposit.

20 4.49 On each paystub CDI issued to Taber from February 15, 2018 through Taber’s  
21 last 2018 paystub on December 20, 2018, CDI included this \$500.

22 4.50 On each paystub issued to Taber from February 15, 2018 to the end of 2018, CDI  
23 included the nonexistent \$500 deposit in the amount listed on Taber’s paystubs next to the label  
24 “Hsa Ee” under the title “Deductions” and under the subtitle “year to date.”  
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1           4.51    On May 25, 2018, CDI deposited into Taber's HSA the \$2,125 2018 wage  
2 deductions that CDI had failed to deposit on the payday when the deductions were taken.

3           4.52    CDI did not at any time deposit \$500 into Taber's HSA for the nonexistent \$500  
4 deposit.

5           4.53    From February 15, 2018 until CDI stopped working with Taber to pay all of  
6 Taber's wages and damages on August 12, 2019, Taber thought CDI owed her the nonexistent  
7 \$500 deduction.  
8

9           4.54    From February 15, 2018 until CDI stopped working with Taber to pay all of  
10 Taber's wages and damages on August 12, 2019, Taber asked CDI to pay her the nonexistent  
11 \$500 deduction.  
12

13           4.55    On August 12, 2019, Corporate Secretary and Corporate Counsel, Eric Hobbs.  
14 (hereinafter "**Hobbs**") told Taber that CDI did not owe Taber the nonexistent \$500 deduction.  
15

16           4.56    Hobbs did not explain why CDI did not owe the nonexistent \$500 deduction or  
17 what happened to the nonexistent \$500 deduction.

18           4.57    On August 12, 2019, referring to the nonexistent \$500 deduction, Hobbs wrote in  
19 his final email to Taber, "I looked at our records which show definitively that you received a full  
20 employer HSA match in both 2017 and 2018; hence, there being matches, there are no matches  
21 for which to provide you compensation."  
22

23           4.58    In his August 12, 2019 email, Hobbs did not provide Taber the records that he  
24 reviewed.

25           4.59    CDI never provided an accounting for why the 2018 HSA balance listed on  
26 Taber's paystubs was overstated by \$500.  
27  
28



1           4.71    On March 14, 2018, the five checks CDI had deposited into Taber's HSA on  
2 March 6 were returned unpaid.

3           4.72    Within a week of March 14, 2018, CDI received the five checks that were returned  
4 on March 14, 2018.

5  
6 CDI Failed to Deposit Withheld 2017 HSA Contributions Before the 2017 Contribution Deadline Expired

7           4.73    CDI had at least 107 days from the date Taber informed CDI of the fact that CDI  
8 had been taking wage deductions without depositing the wages into Taber's HSA to the 2017  
9 HSA contribution deadline on April 17, 2018.

10  
11           4.74    CDI did not deposit Taber's 2017 wage deductions on or before the 2017 HSA  
12 contribution deadline.

13 CDI Did Not Pay the Withheld Wages Directly to Taber When Taber's Instructions Expired

14           4.75    Before the end of the day on April 17, 2018, CDI could have fulfilled Taber's  
15 instructions to deposit her 2017 wage deductions into her HSA as 2017 employee contributions.

16           4.76    After April 17, 2018, CDI could no longer fulfill Taber's instructions to deposit  
17 her 2017 wage deductions into her HSA as 2017 employee contributions.

18           4.77    After April 17, 2018, CDI had a duty to pay directly to Taber her 2017 wage  
19 deductions to Taber.

20  
21           4.78    From April 18 through May 24, 2018, CDI continued keeping Taber's 2017 wage  
22 deductions.

23  
24 CDI Contributed the 2017 Wage Deductions into Taber's HSA as 2018 Contributions Without Taber's  
25 Authority

26           4.79    Taber never gave CDI permission to deposit her 2017 wage deductions into her  
27 account as 2018 employee contributions

4.81 After April 17, 2018, the law did not permit CDI to recharacterize money in Taber's HSA from being a 2018 employee contribution to being a 2017 employee contribution.

4.82 On May 25, 2018, CDI had identified no legal authority to support the conclusion that it could deposit Taber's 2017 wage deductions as a 2018 employee contribution and obtain permission from the IRS to recharacterize that deposit as a 2017 employee contribution.

4.83 On May 25, 2018, CDI deposited the \$6,300 of Taber's 2017 wage deductions into Taber's HSA as 2018 contributions.

4.84 After depositing the \$6,300 of Taber's 2017 wage deductions into Taber's HSA as 2018 contributions, CDI told Taber that it would obtain permission from the IRS to recharacterize the \$6,300 of Taber's 2017 wage deductions from 2018 employee contributions to 2017 employee contributions.

4.85 CDI listed on Taber's May 24, 2018 paystub \$5,625 next to the label "Hsa Ee" under the title "Deductions" and under the subtitle "year to date."

4.86 On May 24, 2018, Taber expected to receive another \$1,200 of 2018 employer contributions.

4.87 On May 24, 2018, the total balance of Taber's 2018 employee contributions plus the expected \$1,200 of 2018 employer contributions added to \$6,825.

4.88 On May 24, 2018, Taber needed to contribute \$75 as 2018 employee contributions to reach the annual combined contribution limit of \$6,900.

1           4.89    CDI's May 25, 2018, deposit of Taber's \$6,300 of 2017 wage deductions caused  
2   Taber to exceed the annual combined contribution limit by more than \$6,000.

3           4.90    CDI knew that depositing Taber's \$6,300 of 2017 wage deductions would cause  
4   Taber to exceed the annual combined HSA contribution limit.

5           4.91    On each of Taber's remaining 2018 paystubs, CDI excluded the \$6,300 deposit of  
6   2017 wage deductions from the total 2018 annual employee contributions listed on paystub next  
7   to the label "Hsa Ee" under the title "Deductions" and under the subtitle "year to date."  
8

9           4.92    CDI's deposit of Taber's \$6,300 2017 wage deductions as 2018 employee  
10   contributions caused Taber to incur IRS penalties, fines, and interest.

11           CDI Caused Taber to Contribute Even More in 2018 to Her HSA by Making False and Misleading  
12           Statements in Taber's Paystubs, Failing to Correct Its Errors, and Making Misleading Promises  
13

14           4.93    After May 24, 2018, Taber did not know how much she needed to deposit to reach  
15   the 2018 combined HSA annual limit.

16           4.94    CDI's paystubs had repeatedly listed deductions that had not occurred.

17           4.95    CDI's paystubs after May 24, 2018 did not include the May 25, 2018 deposit of  
18   Taber's \$6,300 2017 wage deductions as a 2018 employee contribution.  
19

20           4.96    Taber was confused by the five bounced checks that CDI deposited on March 2,  
21   2018. Those checks appeared as deposits and then reversed deposits on Taber's HSA statement.

22           4.97    On March 2, 2018, CDI should have deposited \$6,150 of the \$6,300 that it had  
23   deducted from Taber's wages in 2017.

24           4.98    On March 2, 2018, CDI should have deposited \$600 for the 2017 employer  
25   contributions it owed.  
26  
27  
28



1           4.99 On March 2, 2018, CDI should have returned \$150 of Taber's \$6,300 wage  
2 deductions because Taber needed to contribute only \$6,150 to reach the 2017 annual combined  
3 limit.  
4

5           4.100 On March 2, 2018, CDI should have deposited \$2,625 as a 2018 employee  
6 contribution because that was the difference between the total 2018 employee contributions listed  
7 on Taber's paystub and the 2018 employee contributions actually in the HSA.

8           4.101 As of March 24, CDI did not yet owe a 2018 employer contribution.

9           4.102 On March 2, 2018, CDI deposited \$5,700.  
10

11           4.103 CDI designated the March 2, 2018 \$5,700 deposit as a 2018 employee  
12 contribution.

13           4.104 On March 2, 2018, CDI deposited \$600 as an employer contribution.

14           4.105 CDI designated the March 2, 2018 \$600 deposit as a 2018 employer contribution  
15

16           4.106 On March 2, 2018 and in the weeks that followed, CDI did not pay \$150 directly  
17 to Taber.

18           4.107 On March 2, 2018, CDI deposited \$2,725 as 2018 employee contributions.

19           4.108 The March 2, 2018 \$2,725 employee contribution was \$100 more than the  
20 difference between the total 2018 employee contributions listed on Taber's paystub and the 2018  
21 employee contributions actually in her HSA.  
22

23           4.109 On March 2, 2018, CDI deposited two \$300 payments as 2018 employer  
24 contributions.

25           4.110 Taber was confused by CDI's May 25, 2018 contributions.

26           4.111 On May 25, 2018, CDI should have deposited \$6,150 of the \$6,300 that it had  
27 deducted from Taber's wages in 2017.  
28

1           4.112 On May 25, 2018, CDI should have returned \$150 of Taber's \$6,300 wage  
2 deductions because Taber needed to contribute only \$6,150 to reach the 2017 annual combined  
3 limit.  
4

5           4.113 On May 25, 2018, CDI should have deposited \$2,625 as a 2018 employee  
6 contribution because that was the difference between the total 2018 employee contributions listed  
7 on Taber's paystub and the 2018 employee contributions actually in the HSA.  
8

9           4.114 On May 25, 2018, CDI deposited \$8,425 as a 2018 employee contribution.

10          4.115 The May 25, 2018 deposit of \$8,425 did not equal \$6,300 plus \$2,625.

11          4.116 The May 25, 2018 deposit of \$8,425 did not equal \$6,150 plus \$2,625.

12          4.117 In the next two months after May 25, 2018, Taber repeated her request for an  
13 accurate accounting of her wage deductions and HSA contributions.  
14

15          4.118 In the next two months after May 25, 2018, CDI did not provide Taber an accurate  
16 accounting of her wage deductions and HSA contributions.

17          4.119 CDI processed four more \$500 employee contributions to Taber's HSA in June  
18 and July 2018.

19           CDI Kept the 2017 Wage Deductions from Taber Through Deception and Incompetence  
20

21          4.120 On May 25, 2018, CDI had a duty to immediately determine whether it could get  
22 permission from the IRS to reallocate any of Taber's HSA contributions from 2018, to 2017.

23          4.121 From May 25 to February 19, 2019, CDI repeatedly told Taber that it would get  
24 IRS permission to recharacterize Taber's 2017 wage deductions from a 2018 employee  
25 contribution to a 2017 employee contribution.  
26  
27  
28

1           4.122 CDI did not investigate or research whether it could get IRS permission to  
2 recharacterize Taber's 2017 wage deductions from a 2018 employee contribution to a 2017  
3 employee contribution until December 12, 2018.  
4

5           4.123 From May 25 to December 12, 2018, CDI did not:

- 6           • call, write, or read resources on the website of the US Internal Revenue Service  
7           (<https://www.irs.gov/publications/p969>),
- 8           • call, write, or read resources on the website of the US Treasury Department  
9           ([https://www.treasury.gov/resource-center/faqs/Taxes/Pages/Health-Savings-](https://www.treasury.gov/resource-center/faqs/Taxes/Pages/Health-Savings-Accounts.aspx)  
10           Accounts.aspx),
- 11           • call, write, or read resources on the website of the Washington State Insurance  
12           Commissioner (<https://www.insurance.wa.gov/health-savings-accounts>),
- 13           • the US Department of Treasury,
- 14           • consult a tax/ERISA/employee-benefits attorney, or
- 15           • consult a human-resources expert such as an expert from the Society of Human  
16           Resources Management ("SHRM"),
- 17           • call, write, or read resources on the website of City of Seattle Office of Labor  
18           Standards,
- 19           • call, write, or read resources on the website of the Washington State Department of  
20           Labor and Industries, or
- 21           • call, write, or read resources on the website of US Department of Labor

22           to determine whether CDI could have Taber's 2017 wage deductions reallocated from 2018  
23           employee contributions to 2017 employee contributions.  
24

25           4.124 On August 7, 2018, CDI's custodian, HSA Bank sent a letter to Taber stating that  
26           Taber had overcontributed to Taber's HSA.  
27

28           4.125 HSA Bank's August 7, 2018 letter to Taber did not state how much Taber had  
overcontributed to Taber's HSA.

          4.126 HSA Bank's August 7, 2018 letter to Taber instructed Taber to submit an excess  
contribution form to remove the amount that exceeded the annual limit.

1           4.127 On August 7, 2018, Taber had 2018 employee contributions that totaled \$14,625,  
2 which was comprised of the \$6,300 of 2017 wage deductions plus \$7,125 of 2018 employee  
3 contributions plus \$1,200 that CDI would contribute as 2018 employer contributions.  
4

5           4.128 On August 7, 2018, Taber had already contributed more than the combined  
6 employer and employee annual contribution limit of \$6,900.

7           4.129 Sometime in the month after August 7, 2018, Taber asked CDI how much she had  
8 overcontributed to Taber's HSA.  
9

10           4.130 Sometime between August 7 and November 8, 2018, CDI told Taber that Taber  
11 had contributed \$800 too much as 2018 HSA employee contributions.

12           4.131 Sometime between August 7 and November 8, 2018, CDI told Taber to withdraw  
13 \$800 from her HSA.  
14

15           4.132 November 8, 2018, CDI's custodian HSA Bank refunded \$800 of Taber's  
16 employee contributions to Taber.

17           4.133 On December 7, 2018, Taber emailed Sarchett and Benefits Administrator Vivian  
18 Gould (hereinafter "**Gould**") requesting that CDI fix the errors. Taber wrote in the email,  
19

20           I just got off the phone with HSA. And my account is still not correct.

21           It's showing that my 2017 contribution was only .01 It is showing my 2018  
22 contribution as 14,625[.]

23           Even though the money was taken out in 2017 – those transactions and CDI's  
24 contribution was posted in 2018 so that is the year that it's counting towards. So  
25 my account according to them is still over by \$7,125 and not the \$800 check that  
26 was requested a few weeks ago.

27           ...  
28           This is incredibly frustrating as I lost out on 2017 and did not get the full CDI  
contribution for that[.]

1           4.134 On December 12, 2018, Sarchett emailed Cigna Corporation Regional Sales &  
2 Service Senior Client Manager Moradshahi (hereinafter “**Moradshahi**”) and instructed him to  
3 recharacterize the 2017 wage payments for Taber’s HSA. Sarchett wrote:  
4

5           Effectuated employee: Alex Taber  
6           There should be \$6,150 applied to 2017 from 2018 as an employee contribution[.]

7           4.135 In the December 12, 2018 email to Moradshahi, Sarchett stated that Taber had  
8 overcontributed an additional \$775 to her HSA but did not explain how that amount was  
9 calculated.

10           4.136 On December 13, 2018, Moradshahi emailed Sarchett and told her that Taber’s  
11 2017 HSA wage deductions could not be recharacterized as 2017 contributions because the  
12 contribution deadline had passed. Moradshahi wrote:

13           I wanted to share an update... So far, I am being told we are past the deadline to  
14 do anything to 2017. I have pushed back, given the circumstances to see if there  
15 are an extraordinary circumstances that will allow us to push those deadlines (I  
16 worry it may be IRS-limiting, but want to be sure).

17           4.137 On December 19, 2018, Moradshahi confirmed with Sarchett that Taber’s 2018  
18 HSA wage deductions could not be recharacterized as 2017 contributions. Moradshahi wrote:

19           I had escalated hoping I would get a different answer. Unfortunately, it is not a  
20 Cigna call (regardless of the background reason for the mix-up).

21           The HSA is IRS regulated so there is no flexibility. The deadline to post 2017  
22 funds was April 17, 2018. Since that time has passed there is no way to apply  
23 2018 contributions towards 2017.

24           ... They will have until the 2018 tax deadline to make corrections. Unfortunately,  
25 I don’t think this solves for the issue at hand.

26           4.138 On December 19, 2018, Sarchett did not inform Taber of the information she had  
27 received from Moradshahi.  
28

1           4.139 On December 19, 2018, Sarchett told Moradshahi that Sarchett wanted to call the  
2 IRS. Sarchett wrote:

3           Is there a number for someone in the department that can help guide me to the  
4 right IRS person. It just has to be a way since the deductions happened in 2017  
5 and I have all the stubs to prove that and her w2 shows the same. The only issue  
6 is the deposit into her account was labeled wrong year.

7           4.140 On December 20, 2018, Sarchett emailed Gould stating, "Please see the  
8 attachment as discussed to make the adjustment to Alexandra Taber's account for 2017/2018."

9           4.141 Sarchett attached a blank uncompleted "Contribution Removal Form" to the  
10 December 20, 2018 form.

11           4.142 CDI did not send the "Contribution Removal Form" to Taber ever.

12           4.143 On December 20, 2018, Gould wrote a letter requesting that Taber's 2017 wage  
13 deductions be recharacterized as a 2017 contribution.

14           4.144 Gould's December 20, 2018 letter was not addressed to anyone.

15           4.145 The body of the above-mentioned letter started with, "To Whom It May Concern."

16           4.146 By October 16, 2019, CDI had placed no document that discussed Gould's  
17 December 20, 2018 letter in Taber's employee file.

18           4.147 Referring to Taber as "her," Gould admitted in the December 20, 2018 letter that,  
19 "There was an error in the entry of her direct deposit and the funds were not going into her  
20 account."

21           4.148 Gould admitted in the December 20, 2018 letter that, "There were both 2017 and  
22 2018 funds missing."

23           4.149 In the December 20, 2018 letter, Gould asked the intended recipient to  
24 recharacterize \$6,150 of the 2018 employee contributions to the year 2017.

1           4.150 In the December 20, 2018 letter, Gould failed to mention the missing \$600 of  
2 2017 employer contributions.

3           4.151 On December 21, 2018, Cigna HSA Senior Account Specialist Megan Skubic  
4 (hereinafter “Skubic”) told Sarchett again that there was no way to recharacterize Taber’s 2017  
5 HSA wage deductions from 2018 employee contributions to 2017 employee contributions.  
6 Skubic wrote:  
7

8           I received notification from HSA Bank that they are not able to change the  
9 contribution year for Alexandra Taber’s HSA deposit on 5/23/18. Per IRS  
10 regulations, any deposits for the prior tax year would need to be made before the  
11 tax filing deadline. Because of those regulations, there unfortunately isn’t an  
12 option to recode the contribution year for deposits made after the tax filing  
13 deadline.

14           4.152 On December 21, 2018, Sarchett did not tell Taber that there was no way to  
15 recharacterize Taber’s 2017 HSA wage deductions from 2018 employee contributions to 2017  
16 employee contributions.

17           4.153 On January 8, 2019, Moradshahi emailed Sarchett stating:

18           I apologize for the delay in getting back to you .... I have the question out to my  
19 HSA team, and hope to hear back shortly. I have a feeling they will reiterate that  
20 the question is for a tax professional, but escalating nonetheless.

21           4.154 On February 19, 2019, Sarchett emailed Taber and told her that there was no way  
22 to recharacterize Taber’s 2017 HSA wage deductions from 2018 employee contributions to 2017  
23 employee contributions.

24           4.155 Sarchett’s February 19, 2019 email included emails that Sarchett had exchanged  
25 with other people before February 19, 2019.  
26  
27  
28

1           4.156 The email attached to Sarchett's February 19, 2019 revealed that before December  
2 2018, CDI made no effort whatsoever to recharacterize Taber's 2017 HSA wage deductions from  
3 2018 employee contributions to 2017 employee contributions.  
4

5           4.157 The email attached to Sarchett's February 19, 2019 revealed that CDI had not  
6 spoken with anyone at the IRS about obtaining permission to recharacterize Taber's 2017 HSA  
7 wage deductions from 2018 employee contributions to 2017 employee contributions.  
8

9           4.158 Later on February 19, 2019, Taber responded to Sarchett's February 19, 2019  
10 email and reminded Sarchett that she, Taber, had brought up problems with the 2017  
11 contributions in early 2018. Taber wrote:

12           I brought this issue up at the beginning of 2018 but it looks like the first contact  
13 with Cigna wasn't until December?

14           I thought you'd said you'd also already spoken to someone at the IRS regarding  
15 this.

16           4.159 Later on February 19, 2019, Sarchett responded to Taber's responsive email and  
17 confirmed that the statements in Taber's email were correct. Sarchett wrote:

18           You are correct you and I where [sic] working very hard on this issue and we had  
19 been working with your spreadsheets for a few months. The email chain is the  
20 chain with the contact information you requested for those who told me no. It did  
21 take sometime to figure out what was missing and work with your spread sheet.  
22 My IRS conversation started with the customer service # and a series of transfers,  
23 as we discussed IRS stated that HAS [sic] Bank and Cigna are correct, that the  
24 time line had expired. Here is the # I called IRS: 1-800-829-1040 hours 7 AM - 7  
25 PM local time Monday-Friday

26           I highly recommend that you work with your tax professional on this going  
27 forward, it is beyond my ability and contacts with tax knowledge. I hope the  
28 waiver is possible.



1 4.160 Later on February 19, 2019, Taber replied to Sarchett's responsive email and  
 2 requested a record of people Sarchett had spoken with and raised several issues concerning her  
 3 HSA contributions. Taber wrote:

4 So you have no record of who you spoke with?

5 ...

6 When the original checks bounced in March it should have been addressed and it  
 7 wasn't. I still don't understand how CDI didn't know that it's *[sic]* checks were  
 8 bouncing. I know within a day if I do that on my personal account.

9 ...

10 My spreadsheet technically didn't matter because the urgency was that what was  
 11 taken out of my paycheck needed to be deposited into my account and allocated  
 12 properly to the year. Any additional discrepancies could have been addressed  
 13 later.

14 I'd like to confirm that my fees to involve a tax professional will be covered in  
 15 addition to the additional tax and any other fines the IRS may assess me at this  
 16 point.

17 There also remains the issue that what was taken out of my paychecks is not in  
 18 the HSA account. I'm not sure I understand how or why that has happened as it  
 19 seems that accounting reconciles all the bank balances. Since I'm still missing  
 20 over \$1K in my account, does that mean that that money was put into someone  
 21 else's account? I would think that CDI's bank balances would have been off for  
 22 all of 2018 as a result? I need this additional amount returned to me as well before  
 23 the tax deadline since I will want to apply any amounts I have to take a distribution  
 24 on to my after tax 2017 Roth 401K.

25 4.161 Sarchett did not respond to Taber's February 19, 2019 responsive email.

26 4.162 Later in February 2019, Taber called the IRS telephone number that Sarchett had  
 27 provided in her February 19, 2019 responsive email. The call was answered by an IRS answering  
 28 service. The answering service did not offer the caller a way to speak with an IRS representative.

4.163 On February 20, 2019, Taber emailed Sarchett an accounting of her HSA  
 contributions that showed CDI had failed to contribute \$1,100 to Taber's HSA.

4.164 The \$1,100 missing 2017 HSA contributions consisted of the missing \$600 of  
 2017 employer contributions and the nonexistent \$500 deposit.

1 4.165 Later on February 20, 2019, Sarchett responded to Taber's February 20, 2019  
2 email.

3 4.166 In her February 20, 2019 responsive email, Sarchett indicated that Taber could  
4 still recharacterize her 2017 HSA wage deductions from 2018 employee contributions to 2017  
5 employee contributions. Sarchett wrote:  
6

7 There should be \$6,150 applied to 2017 from 2018 as an employee contribution  
8 2018 should be maxed out at \$6900  
9 We will need a return \$775 over contributed funds.

10 4.167 In her February 20, 2019 responsive email, Sarchett assumed that CDI had made  
11 the 2017 employer deposit of \$600.

12 4.168 Sarchett did not provide a detailed accounting to support her statements in her  
13 February 20, 2019 responsive email.

14 4.169 Later on February 20, 2019, Taber responded to Sarchett's responsive email and  
15 asked Sarchett to clarify how Sarchett calculated the \$775 amount. Taber wrote, "Can you please  
16 clarify how the \$775 was reached?"  
17

18 4.170 Later on February 20, 2019, Sarchett responded to Taber's responsive email. In  
19 her response, Sarchett did not explain how she calculated the \$775 amount. Instead, Sarchett  
20 wrote, "We can always walk through it again, all you would need to do is bring a current account  
21 statement from HSA bank or your log in."  
22

23 4.171 Later on February 20, 2019, Taber responded to Sarchett's second responsive  
24 email and stated that she did not understand how Sarchett had calculated the \$775 amount. Taber  
25 wrote, "Here's what I have based on my paychecks and W2's.: I'm not following how you have  
26 \$775."  
27

28 4.172 Sarchett did not respond to Taber's second responsive email.

1           4.173 On March 31, 2019, CDI Controller Robert Yanak (hereinafter “**Yanak**”) and  
 2 CDI Assistant Controller Colleen Taylor (hereinafter “**Taylor**”) met with Taber and told Taber  
 3 that they and the rest of the finance department had not previously heard that there were problems  
 4 with Taber’s wage deductions and HSA contributions.  
 5

6           4.174 On March 31, 2019, Yanak and Taylor confirmed that the 2017 wage deductions  
 7 could not be recharacterized from 2018 employee contributions to 2017 employee contributions.  
 8

9           4.175 On March 31, 2019, Taber withdrew the \$6,300 of 2017 wage deductions from  
 10 her HSA.

11                   CDI Wrongfully Terminated Taber in Retaliation for Making a Wage Claim

12           4.176 CDI and CDI’s clients gave Taber very good performance reviews.

13           4.177 In a March 20, 2017 review, Taber’s manager Andy Zuchetto (hereinafter  
 14 “**Zuchetto**”) stated Taber was articulate, patient, professional, and an intelligent, analytical, hard  
 15 worker who “likes a good challenge” and who “took on a huge breadth of process” and met the  
 16 challenges with “great enthusiasm and effective solutions” while providing clients “excellent  
 17 service.” Zuchetto wrote:  
 18

19           Alexandra has provided excellent service to her customers. Since she started at  
 20 CDI last year, she has taken on a huge breadth of process, BI, and data challenges  
 21 and has met these challenges with great enthusiasm and effective solutions.

22           ...

23           Alexandra is articulate, patient, and professional in her interactions with both her  
 24 peers and customers. She listens well and provides her own persuasive incite and  
 25 knowledge. She enjoys working with people and this comes through in her  
 26 communications.

27           ...

28           Alexandra is an intelligent, analytical, hard worker who likes a good challenge  
 and is enjoyable to work with. She needs to continue to grow as a data expert with  
 respect to CDI's many complex processes and systems, but is learning very fast.  
 She has a large workload and because of this needs to balance coming up with the  
 perfect solution vs just getting things done.

1 4.178 In a On September 13, 2017 review, Zuchetto wrote:

2 Alex has done a great job over the past six months, is a pleasure to work with, and  
3 continues to grow by learning the complexities of our many systems and data  
4 structures.

5 4.179 On October 15, 2018, Taber's supervisor Jun Delovino (hereinafter "**Delovino**")  
6 wrote a letter praising Taber's work. Delovino wrote:

7 Alexandra continued to provide excellent reporting support for our users.

8 It's been a pleasure of having Alexandra as a member to our team. In addition to  
9 her outstanding work with developing and maintaining our reports and end-user  
10 support, she has also been heavily involved helping the company in several ways  
11 such as: assisting with the company warehouse sales in Reno and Seattle or  
12 creating new opportunities in the past year to help the company reduce inventory  
through donations and charity work. I look forward to Alexandra playing a huge  
role in our teams success in 2019.

13 4.180 On July 26, 2019, Zuchetto wrote Taber a letter of recommendation, stating:

14 During Alexandra Taber's employment at Cascade Designs, I was initially her  
15 manager and later her colleague. I could not have asked for a better employee and  
16 colleague due to her exceptional technical and analytical skills and her ability to  
17 produce results in an efficient, timely manner. She was an excellent team member  
18 who listened well, contributed at a high level, respected her teammates, and could  
19 be counted on to do her part. She was passionate about her job and seemed to  
really enjoy taking on new challenges and learning new things. I highly  
recommend Alexandra to any employer looking for a star to add to their team.

20 4.181 On July 17, 2019, CDI Director of Technology Asif Eshbhani wrote Taber a letter  
21 of recommendation, stating:

22 Alexandra is a team player! Very responsive and highly skilled. I had the opportunity to  
23 work with Alexandra on a project where she displayed an exceptional ability to lead JAD  
24 sessions in an agile environment. She would take extra time to explain options while  
25 providing technical details in a manner easily understood by the business. Always  
attempting to alleviate ambiguity to bring structure. Alexandra 'owns' her work and  
makes every attempt to follow-up, follow-thru and complete her assignments

26 4.182 On August 6, 2019, CDI's former CDI CEO and President David Burroughs wrote  
27 Taber a letter of recommendation praising Taber's work, stating:  
28

1 During my time with Alex, I saw her go beyond the call of duty on multiple occasions  
2 where she brought an infectious energy and leadership to teams. She received rave  
3 reviews from our company's sales team for her work on and at special sales events where  
her ideas and IT skills led to increased customer participation, profit margin, and fun.

4 I highly recommend Alex. She has that much sought-after mix of technology skills,  
5 leadership and interpersonal skills to be effective and create value for the organization

6 4.183 While at CDI, Taber worked on ETL projects.

7 4.184 While at CDI, Taber created automated processes within the Microsoft BI Stack  
8 to eliminate time-consuming manual steps.

9 4.185 On July 17, 2019, CDI still needed the services that Taber provided.

10 4.186 On July 17, 2019, CDI had no other employee with the skills required to do the  
11 work Taber did on ETL projects.

12 4.187 On July 17, 2019, CDI had no other employee with the skills required to create  
13 automated processes within the stack to eliminate time-consuming manual steps.

14 4.188 On July 17, 2019, CDI terminated Taber.

15 4.189 CDI terminated Taber for complaining about CDI's withholding of Taber's HSA  
16 contributions.

17 4.190 In mid-July 2019, CDI told Taber that CDI was terminating Taber as part of a  
18 layoff.

19 4.191 CDI made Taber's termination effective on July 17, 2019.

20 CDI Terminated Taber in Part Based on Taber's Age

21 4.192 The percentage of people over forty years old employed by CDI over the past few  
22 years is less than the percentage of people over forty years old in the marketplace for CDI's jobs  
23 during the same period.

1           4.193 The difference between the percentage of people over forty years old employed  
2 by CDI over the past few years and the percentage of people over forty years old in marketplace  
3 for CDI's jobs during the same period is statistically significant.  
4

5           4.194 The difference between the percentage of people over forty years old terminated  
6 by CDI over the past few years and the percentage of people over forty years old remaining as  
7 CDI employees after those terminations during the same period is statistically significant.  
8

9           4.195 CDI terminated Taber in part because she was older than forty years old.  
10

11                   CDI Terminated Taber in Part Based Taber's Gender Discrimination  
12

13           4.196 The percentage of women employed by CDI over the past few years is less than  
14 the percentage of women in the marketplace for CDI's jobs during the same period.  
15

16           4.197 The difference between the percentage of women employed by CDI over the past  
17 few years and the percentage of women in marketplace for CDI's jobs during the same period is  
18 statistically significant.  
19

20           4.198 The difference between the percentage of women terminated by CDI over the past  
21 few years and the percentage of women remaining as CDI employees after those terminations  
22 during the same period is statistically significant.  
23

24           4.199 CDI terminated Taber in part because she is a woman.  
25

26                   CDI Refused to Pay The \$600 of 2017 Employer Contributions  
27

28           4.200 On April 5, 2019, CDI Controller Robert Yanak (hereinafter "**Yanak**") sent an  
email to CDI Human Resources Director Harry Ross (hereinafter "**Ross**") and CDI Chief  
Financial Officer Steve McClure (hereinafter "**McClure**") and endorsed Taylor's reconciliation  
of Taber's HSA contributions. Taylor's reconciliation stated that CDI owed Taber \$1,100, an

1 amount that consisted of the missing \$600 2017 employer contributions and the nonexistent \$500  
2 deduction. Yanak wrote:

3  
4 There is absolutely nothing Alex can do to fix the problem. Alex has put more  
5 time into this problem to date than any employee should be required to do as a  
6 result of a company caused error. As you know, this has been going on for over a  
7 year. Collene [Taylor] has completed a reconciliation of the misallocated funds,  
8 so we have the numbers.

9 ...  
10 This subject (HSA, taxes, govt regulation) is complicated and technical. You  
11 should not feel that you need to have all the answers – no one in this company has  
12 all the answers to these technical issues. However, you have to recognize when  
13 an issue is outside of your knowledge and to reach out to any of us in Finance,  
14 Legal, or our benefit partners immediately.

15 4.201 In 2019, Taber hired tax accountant, Chitra Senthivel (hereinafter “**Senthivel**”).

16 4.202 Senthivel worked with Taylor to prepare accurate accounting for Taber’s 2017  
17 and 2018 HSA contributions.

18 4.203 Senthivel and Taylor both concluded that CDI owed Taber \$1,100 for unpaid HSA  
19 contributions.

20 4.204 Sometime after June 24, 2019, and before CDI terminated Taber, Taber provided  
21 CDI with a letter dated June 24, 2019 from Senthivel.

22 4.205 In her June 24, 2019 letter, Senthivel stated that CDI owed Taber \$1,100 for  
23 unpaid 2017 and 2018 HSA contributions.

24 4.206 The \$1,100 referred to in Senthivel’s June 24, 2019 letter consisted of the missing  
25 \$600 2017 employer contributions and the nonexistent \$500 deposit.

26 4.207 On July 7, 2019, Corporate Secretary and Corporate Counsel, Eric Hobbs received  
27 an email from Taber stating that Taber had informed CDI of the missing employer contributions  
28 as early as December 2017. Taber wrote:



I had originally brought the issue of the missing money from my account to Julie in December of 2017. There had been some issues with her agreeing on the amount (what was on my paychecks did not match what she said she saw in ADP). There had also been money missing from the CDI contribution portion which she did not agree on but Collene eventually documented was right and that CDI had not made \$1100 of their contribution to my account.

4.208 Sometime after receiving Senthivel's letter, Hobbs wrote in notes on Senthivel's letter, "Contrary to the above, Alexandra received both her full employer HSA contributions in 2017 and 2018; accordingly, the erroneous \$1,100 has been removed from the calculation above."

4.209 On August 8, 2019, Hobbs sent an email to Taber and stated that CDI had already compensated Taber for the \$600 of 2017 employer contributions. Hobbs wrote:

CDI will also not pay what your tax advisor noted as "missed HSA employer contribution for 2017 and 2018." I checked ADP: even though the \$6,150 HSA contribution did not enter your HSA account in 2017 (which was CDI's error), CDI did, nonetheless, make the employer contribution (which was \$600) in 2017; likewise, CDI made its full employer HSA contribution in 2018 (which was \$1,200). Hence, there being no missed HSA employer contribution in either 2017 or 2018, there is no missed contribution for CDI to pay.

4.210 Hobbs provided no accounting in his August 8, 2019 email to Taber to support his conclusion that CDI had made the \$600 2017 employer contribution.

4.211 On August 12, 2019, Taber emailed Hobbs and explained that CDI had previously agreed to pay Taber the \$1,100 for HSA employer contributions as part of a \$11,232.77 payment for various damages.

4.212 Later on August 12, 2019, Hobbs responded to Taber's August 12, 2019 email and stated that, according to CDI's records, Taber had received full employer HSA matches in both 2017 and 2018. Hobbs wrote:

The \$11,232.77 includes \$1,100 for "*Missed HSA employer contribution for 2017 and 2018.*" I looked at our records which show definitively that you received a



1 full employer HSA match in both 2017 and 2018; hence, there being no missed  
2 HSA matches, there are no matches for which to provide you compensation.

3 4.213 In his August 12, 2019 responsive email to Taber, Hobbs did not provide a copy  
4 of the records he claimed to have looked at.

5 4.214 In his August 12, 2019 responsive email to Taber, Hobbs did not provide any  
6 evidence for his conclusion that CDI had made the \$600 2017 employer contribution.

7 4.215 CDI had never paid Taber the missing \$600 of 2017 employer contributions.

8 CDI Refused to Pay Taxes on the \$600 of 2017 Employer Contributions

9  
10 4.216 In her June 24, 2019 letter, Senthivel stated that CDI owed Taber a reimbursement  
11 for taxes Taber would pay on the previously withheld \$600 2017 employer contribution when  
12 CDI paid Taber that \$600.

13  
14 4.217 In his August 8, 2019 responsive email to Taber, Hobbs refused to reimburse  
15 Taber for the taxes Taber will be required to pay once she receives the previously withheld \$600  
16 2017 employer deposit, stating:

17 What CDI will not pay is the following:

- 18 • Tax on the 2017 employer match;

19 4.218 CDI has not reimbursed Taber for the taxes Taber will be required to pay once  
20 she receives the previously withheld \$600 2017 employer deposit.

21 CDI Paid No Interest on the HSA Contributions That CDI Kept for Itself and Then Kept from Taber

22 4.219 CDI has not paid interest to Taber for the time CDI kept for itself the \$600 of  
23 2017 employer contributions, the \$6,300 of 2017 employee contributions, and the \$2,125 of 2018  
24 employee contributions that CDI failed to deposit into Taber's HSA on the payday.  
25  
26  
27  
28

1 4.220 CDI has not paid interest to Taber for the time CDI kept for itself the \$600 of  
2 2017 employer contributions and the \$6,300 of 2017 employee contributions that CDI kept out  
3 of Taber's hands by depositing that money into Taber's HSA as a 2018 employee contribution.  
4

5 CDI Failed to Pay Most of the Lost Interest on the 2017 Employer and Employee Contributions.

6 4.221 CDI compensated Taber at 4% per year for 18 years for lost HSA interest on  
7 \$6,150 of the missed 2017 employee contributions.

8 4.222 CDI did not compensate Taber any amount for lost HSA interest on the \$600 of  
9 the missed 2017 employer contributions.  
10

11 4.223 CDI is required by Seattle and Washington State law to compensate Taber at 12%  
12 per year for lost HSA interest.

13 CDI Failed to Pay Taxes on The Lost Interest That CDI Owes for the Missed 2017 Employer and  
14 Employee Contributions

15 4.224 Investors are not required to pay taxes on interest earned in an HSA when the  
16 interest is withdrawn so long as the money is used for qualified healthcare costs.

17 4.225 CDI did not compensate Taber for the taxes she must pay when she withdraws the  
18 interest she earns on the money CDI paid Taber for the lost HSA interest.  
19

20 CDI Refused to Pay Lost Interest on The IRA Contribution That Taber Was Denied Because CDI Inflated  
21 Her 2018 Income

22 4.226 In 2018, a head of household earning \$63,000 or less could deposit \$5,500 into a  
23 deductible IRA. The deduction phased out between \$63,000 and \$73,000.

24 4.227 CDI inflated Taber's 2018 income from \$61,036 to \$66,836 by including \$5,800  
25 of the \$6,300 of 2017 HSA wage deductions in Taber's 2018 IRS form W-2.

26 4.228 The incorrect overstatement of Taber's 2018 income on the W-2 CDI issued to  
27 Taber caused Taber's contribution eligibility to phase by approximately \$3,836. As a result,  
28

1 Taber lost the opportunity to contribute to Taber's IRA by the amount that corresponds the with  
 2 \$3,836 phaseout.

3 4.229 CDI did not compensate Taber for the lost IRA interest.

4 CDI Refused to Pay Increased 2018 Taxes That Resulted from Excessive HSA Contributions

5 4.230 CDI refused to pay Taber's increased taxes that resulted from exceeding the 2018  
 6 combined HSA contribution limit. In the final email to Taber on August 12, 2019, Hobbs stated  
 7 that the inconsistencies were Taber's fault and that CDI would not be reimbursing Taber for  
 8 Taber's 2017 and 2018 HSA contributions. Hobbs wrote:

9  
 10  
 11 Second, the \$858 was due to over contribution to your HSA in 2018. Although  
 12 CDI contributed to the 2017 HSA mishap, other than confusion, the over-  
 13 contribution in 2018 does not sit squarely on CDI's shoulders. Even with the 2017  
 14 contribution that didn't make it into your HSA account until 2018, you still would  
 15 have over-contributed in 2018; hence, this being the case (that there would have  
 16 an over-contribution even if there had been 2017 HSA mishap), it is not  
 17 reasonable for CDI to reimburse these amounts.

18 CDI Failed to Reimburse Taber for Paid Time Off

19 4.231 CDI did not compensate Taber for two days of accrued paid time off.

20 CDI Failed to Maintain Proper Wage Documentation

21 4.232 CDI repeatedly issued Taber inaccurate paystubs in 2017 and 2018.

22 4.233 CDI failed to issue Taber a paystub for employer contributions in 2017, 2018, and  
 23 2019.

24 4.234 CDI did not provide Taber an accounting that showed that CDI had paid the \$600  
 25 of 2017 employer contributions.

26 4.235 CDI did not keep any accounting of employer contributions to Taber's account.

27 4.236 CDI did not provide Taber an accounting that explained the nonexistent \$500  
 28 deposit.

1           4.237 CDI would not provide Taber an accounting of the amounts CDI claimed Taber  
2 had overcontributed to her HSA.

3           4.238 On July 27, 2019, Taber sent an email to Hobbs requesting for documentation of  
4 Taber's HSA deductions and contributions. Taber wrote:  
5

6           I will also need documentation from CDI as to what transpired. I had originally  
7 brought the issue of the missing money from my account to Julie in December of  
8 2017. There had been some issues with her agreeing on the amount (what was on  
9 my paychecks did not match what she said she saw in ADP). There had also been  
10 money missing from the CDI contribution portion which she did not agree on but  
11 Collene eventually documented was right and that CDI had not made \$1100 of  
12 their contribution to my account. She eventually had CDI write a check to HSA  
13 to fund my account but the amount was incorrect and the check bounced which  
14 caused the tax deadline for 2018 to be missed. So as you can see I now have 3  
15 years of taxes with issues and should the IRS audit me because of the  
16 discrepancies between my paychecks, W2 and HSA and incorrect taxable income  
17 for all 3 years, I need to be able to provide clear documentation of what happened  
18 and that this was a CDI error and errors on my part.

19           4.239 On August 8, 2019, Hobbs responded to Taber's July 27, 2019 email but did not  
20 address Taber's request for documentation.

21           4.240 On August 12, 2019, Taber sent another email to Hobbs requesting documentation  
22 regarding Taber's HSA deductions and contributions to avoid discrepancies should Taber be  
23 audited by the IRS. Taber wrote:  
24

25           I also still feel that a brief letter documenting the error, effect and resolution would  
26 be helpful in the event that I am contacted or audited by the IRS due to the  
27 discrepancies between my accounts and taxes. In the absence of such  
28 documentation I will have to rely on emails and texts and my concern is that it  
will initiate a deeper investigation for all parties involved due to the length this  
issue has gone on, the number of players involved and the errors made. I feel a  
brief document summarizing it would show a better resolution to the matter.

29           4.241 Later on August 12, 2019, Hobbs responded to Taber's August 12, 2019 email  
30 stating that he did not think Taber needed the documentation and explaining that CDI's  
31 accounting and handling of Taber's HSA had been "very transparent." Hobbs wrote:

Everything that has transpired with your HSA and taxes is very transparent; I think you have all the documentation you need (plus you have dozens on e-mail on this topic between you and the company.). Also (and this is not tax advice—I'm not a tax attorney or advisor) the IRS generally only looks back three years. Also, my understanding is (again, I'm not a tax advisor or attorney, so you'll need to verify this yourself), the IRS generally isn't too upset by those who revise their filings to pay *more* taxes; i.e., my understanding is that revising your filing to pay more taxes isn't viewed by the IRS as particularly suspicious and, therefore, generally has a low probability of, in and of itself, triggering an audit. If in the next three years the IRS requires additional explanation, and you don't already have the information you need in e-mails, etc. to explain it, I'm sure that company will be happy to provide any missing information.

4.242 During the time Taber worked for CDI, CDI did not post wage-law posters in the workplace that are required by city, state, and federal law.

CDI Denied Taber Severance Pay in Retaliation for Taber's Making A Wage Claim

4.243 CDI offered severance pay to Taber and other CDI employees laid off at the same Taber was terminated.

4.244 CDI offered employees a severance amount that CDI calculated using a formula in a plan called the Exempt Employee severance plan ("the Plan").

4.245 To receive the severance, CDI required all employees other than Taber to release hypothetical unlikely-to-materialize legal claims.

4.246 To receive the severance, CDI required Taber to release her claim for the \$600 2017 employee contribution. CDI knew Taber was claiming that CDI had not paid the \$600 2017 employer contribution.

4.247 To receive the severance, CDI required Taber to release her claim for the nonexistent \$500 deduction that Taber still thought CDI owed to her.

4.248 When CDI offered the severance pay, CDI knew Taber thought CDI owed her he nonexistent \$500 deduction.

1           4.249 To receive the severance, CDI required Taber to release all of the other claims  
2 asserted in this lawsuit.

3           4.250 When CDI offered the severance pay, CDI knew that it was liable for at least  
4 double damages for the wage deductions that CDI had failed to deposit on the payday pursuant  
5 to city, state, and federal law.  
6

7           4.251 Hobbs is an attorney who was admitted to the Washington State Bar in 2006.

8           4.252 In an August 12, 2019 email, Hobbs made clear that CDI would not make any  
9 substantive changes to Taber's severance offer. Hobbs wrote:  
10

11           The upshot of the below is that the company will not be making any additional  
12 changes to your severance agreement—the final offer is the one you are now in  
13 receipt of; likewise the company's HSA reimbursement/payment decision (the  
14 reimbursement/payment you will be receiving this Thursday) is also final. Hence,  
15 while I suspect that may not agree with some of the company's  
16 decisions/responses below, and may wish to submit additional rebuttals, please  
17 know that the company is not open to further negotiation on these topics. As I  
18 point out below, if you don't agree with the severance agreement verbiage, you  
19 have every right to let the 45 days' time in which you have to consider and sign  
20 the agreement lapse, and receive nothing. I point this out, not to be snarky at all,  
21 but to simply reiterate the fact that we're not requiring you to sign anything; the  
22 decision to sign is solely up to you.

23                           CDI Failed to Provide Taber COBRA Notice

24           4.253 On July 17, 2019, CDI terminated Taber's employment effective July 17, 2019.

25           4.254 On July 17, 2019, Taber was a plan participant pursuant to 29 U.S.C.A. § 1002(7)  
26 in the Healthcare Plan.

27           4.255 CDI's termination of Taber caused Taber to lose health insurance coverage under  
28 the Healthcare Plan.

          4.256 CDI's July 17, 2019 termination of Taber was a qualifying event under 29  
U.S.C.A. § 1163.

1 4.257 After being terminated on July 17, 2019, Taber was entitled to a notice of COBRA  
2 continuation coverage from the Healthcare Plan's administrator pursuant to 29 U.S.C.A. § 1166.

3 4.258 After CDI terminated Taber on July 17, 2019, CDI did not provide Taber a notice  
4 of COBRA continuation coverage.  
5

6 4.259 After CDI terminated Taber on July 17, 2019, nobody sent Taber a notice of  
7 COBRA continuation coverage.

8 CDI Failed to Provide LT COBRA Notice

9 4.260 On July 17, 2019, LT was a plan participant pursuant to 29 U.S.C.A. § 1002(7) in  
10 the Healthcare Plan.  
11

12 4.261 CDI's July 17, 2019 termination of Taber caused LT to lose health insurance  
13 coverage under Healthcare Plan

14 4.262 CDI's July 17, 2019 termination of Taber was a qualifying event for LT under 29  
15 U.S.C.A. § 1163.  
16

17 4.263 After Taber was terminated on July 17, 2019, LT was entitled to a notice of  
18 COBRA continuation coverage from the Healthcare Plan's administrator pursuant to 29 U.S.C.A.  
19 § 1166.

20 4.264 After CDI terminated Taber on July 17, 2019, CDI did not provide LT a notice of  
21 COBRA continuation coverage.  
22

23 4.265 After CDI terminated Taber on July 17, 2019, nobody sent LT a notice of COBRA  
24 continuation coverage.

25 Taber Incurred Medical Expenses

26 4.266 After losing coverage under the Healthcare Plan, Taber incurred medical  
27 expenses.  
28

LT Incurred Medical Expenses

4.267 After losing coverage under the Healthcare Plan, LT incurred medical expenses.

**V. CAUSES OF ACTION, DAMAGES, AND RELIEF REQUESTED**

5.1 Taber realleges here the paragraphs in section IV.

**FIRST: WILLFUL WITHHOLDING OF 2017 EMPLOYEE CONTRIBUTIONS**

5.2 An employer shall pay all compensation owed to an employee on an established pay day. Defendants Healthcare Plan and CDI in its capacity as the Healthcare Plan administrator (hereinafter, the “**Employer Defendants**”) did not pay the Plaintiff on the established payday or at any time the \$600 owed as 2017 HSA employer contributions. The Employer Defendants’ conduct, acts, and/or omissions including willful withholding of wages constitutes a willful failure to pay wages pursuant to SMC 14.20.090, RCW 49.52.050, and RCW 49.522.070.

5.3 As a result of the Employer Defendants’ willful withholding of wages, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$600 of unpaid employer contributions;
- (2) \$ 1,200 in double liquidated damages pursuant to SMC 14.20.090;
- (3) \$ 1,200 in double punitive damages pursuant to RCW 49.48.050 and RCW 49.48.070; and,
- (4) Interest on the unpaid \$600 pursuant to SMC 14.20.090 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.

**SECOND: UNLAWFUL WAGE REBATE AND WILLFUL WITHHOLDING OF 2017 EMPLOYEE CONTRIBUTIONS**



1           5.4     The Employer Defendants deducted and kept for itself \$6,300 of Taber's 2017  
 2 wages. The Employer Defendants' conduct, acts, and/or omissions constitute an unlawful wage  
 3 rebate and willful withholding of wages pursuant to SMC 14.20.090, RCW 49.52.050, and  
 4 RCW 49.522.070.  
 5

6           5.5     As a result of the Employer Defendants' unlawful wage rebate and willful  
 7 withholding of wages, Taber suffered the following damages and seeks the following award  
 8 and remedies:  
 9

10           (1) \$0 of the eventually paid \$6,300 late wage payments;

11           (2) \$12,600 in double liquidated damages pursuant to SMC 14.20.090;

12           (3) \$12,600 in double punitive damages pursuant to RCW 49.48.050 and RCW  
 13 49.48.070; and,  
 14

15           (4) \$1,104 in interest on \$6,300 pursuant to SMC 14.20.090 at "12 percent per annum,  
 16 or the maximum rate permitted under RCW 19.52.020" for 533 days from October  
 17 15, 2017 to March 31, 2019 when Taber withdrew the funds from the HSA. (Daily  
 18 interest accrued: \$2.071).  
 19

20           **THIRD: WILLFUL WITHHOLDING OF WAGES IN 2017 DUE TO APPLICATION**  
 21           **OF PAYMENTS TO ONGOING WAGE DEBT**

22           5.6     The Employer Defendants took wages from Taber and kept those wages  
 23 maintaining a wage debt owed to Taber from mid-2017 to the end of 2017. As a result of the  
 24 Employer Defendants' choice to maintain an ongoing wage debt to Taber, each of CDI's  
 25 payments to Taber after the debt began is applied to the prior debt pursuant to the doctrine of  
 26 application of payments. Since the payments were applied to the past wage debt, those  
 27 payments did not cover the full amount of wages due on the date of the payment.  
 28

5.7 As a result of the Employer Defendants' failure to pay 2017 wages on payday, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$0 of the eventually paid \$11,044 late wage payments;
- (2) \$22,088 in double liquidated damages pursuant to SMC 14.20.090, RCW 49.46.020; 29 U.S.C. § 206, 29 U.S.C. § 207, and 29 U.S.C. § 216(b);
- (3) \$22,088 in double punitive damages pursuant to RCW 49.46.020, RCW 49.48.050 and RCW 49.48.070; and,
- (4) Interest at 12 percent per year on at least \$22,088 pursuant to SMC 14.20.090, RCW 19.52.020, and 29 U.S.C. § 216(b).

**FOURTH: DENIAL OF INTEREST ON MISSED 2017 EMPLOYEE CONTRIBUTIONS**

5.8 The Employer Defendants failed to deposit \$6,300 of employee contributions into Taber's HSA in 2017. The Employer Defendants paid 4% interest on \$6,150 of the \$6,300 for 18 years of interest accrual. The Employer Defendants owed 12% interest for 18 years pursuant to SMC 14.20.090 and RCW 19.52.020.

5.9 As a result of the Employer Defendants' failure to deposit Taber's 2017 employee contributions into Taber's HSA, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$22,746, which consists of \$41,143 (tax-free interest pursuant to SMC 14.20.090 at 12 percent per annum or the maximum rate permitted under RCW 19.52.020 for 18 years on \$6,150 of wrongfully withheld 2017 employee contributions) plus \$4,937 (for future 12% income taxes on \$41,143 of interest earned that would not have been taxed when withdrawn from the HSA) reduced to the present value \$22,746.38

(which is the present value of \$46,080 (\$41,143 + \$4,937) at 4% over 18 year period);

- (2) \$6,309, which CDI previously paid for lost tax-deferred income at four percent on \$6,150 of wrongfully withheld 2017 employee contributions;
- (3) \$45,492. in double liquidated damages pursuant to SMC 14.20.090; and,
- (4) \$45,492. in double punitive damages pursuant to RCW 49.48.050 and 49.48.070.

**FIFTH: DENIAL OF TAX-FREE INTEREST ON 2017 EMPLOYER CONTRIBUTIONS**

5.10 The Employer Defendants failed to deposit \$600 of employer contributions into Taber's HSA in 2017. The Employer Defendants owe 12% interest pursuant to SMC 14.20.090 and RCW 19.52.020.

5.11 As a result of the Employer Defendants' failure to deposit Taber's 2017 employer contributions into Taber's HSA, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$210, which is the 2020 income tax on the \$600 of 2017 employer contributions at a rate of 35%;
- (2) \$339, which consists of \$615.49 (tax-free interest of pursuant to SMC 14.20.090 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020 for 18 years on \$600 of wrongfully withheld 2017 employee contributions) plus \$74 (for the future 12% income taxes on \$615.49 of interest that would not have been taxed when withdrawn from the HSA) reduced to the present value of \$339 (which is the present value of \$689 (\$615 + \$74) at 4% over 18 year period);
- (3) \$678 in double liquidated damages pursuant to SMC 14.20.090; and,

(4) \$678 in double punitive damages pursuant to RCW 49.48.050 and 49.48.070.

**SIXTH: UNLAWFUL WAGE REBATE AND WILLFUL WITHHOLDING OF 2018  
EMPLOYEE CONTRIBUTIONS**

5.12 The Employer Defendants deducted and kept for itself \$2,125 of Taber's 2017 wages. The Employer Defendants' conduct, acts, and/or omissions constitute an unlawful wage rebate and willful withholding of wages pursuant to SMC 14.20.090, RCW 49.52.050, and RCW 49.522.070.

5.13 As a result of the Employer Defendants' unlawful wage rebate and willful withholding of wages, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$0 of the eventually paid \$2,125 late wage payments;
- (2) \$4,250 in double liquidated damages pursuant to SMC 14.20.090;
- (3) \$4,250 in double punitive damages pursuant to RCW 40.49.050 and 49.48.070; and,
- (4) \$79 in Interest on \$2,125 pursuant to SMC 14.20.090 at "12 percent per annum, or the maximum rate permitted under RCW 19.52.020" for 113 days from February 1, 2018 to May 25, 2018 (Daily interest accrued: \$0.699)

**SEVENTH: WILLFUL WITHHOLDING OF 2018 EMPLOYER CONTRIBUTIONS**

5.14 An employer shall pay all compensation owed to an employee on an established regular pay day. The Employer Defendants did not pay any of Plaintiff's four 2018 employer contributions on or before the payday.

5.15 As a result of the Employer Defendants' willful withholding of employer contributions, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$0 of the eventually paid \$1,200 late wage payments;
- (2) \$2,400 in double liquidated damages pursuant to SMC 14.20.090; and,
- (3) \$2,400 in double punitive damages pursuant to RCW 40.49.050 and 49.48.070.

**EIGHTH: WILLFUL WITHHOLDING OF WAGES IN 2018 DUE TO APPLICATION OF PAYMENTS TO ONGOING WAGE DEBT**

5.16 The Employer Defendants maintained a wage debt to Taber for the entire year of 2018. As a result of the Employer Defendants' choice to maintain an ongoing debt to Taber, each of CDI's payments to Taber in 2018 is applied to the prior debt pursuant to the doctrine of application of payments. Because payments were applied to the past wage debt, those payments did not cover the full amount of wages due on the date of the payment.

5.17 As a result of the Employer Defendants' failure to pay employer contributions, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$0 of the eventually paid \$53,141 late wage payments;
- (2) \$106,282 in double liquidated damages pursuant to SMC 14.20.09;
- (3) \$106,282 in double punitive damages pursuant to RCW 49.48.050 and RCW 49.48.070; and,
- (4) Interest on \$53,141 pursuant to SMC 14.20.090 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.

**NINTH: WILLFUL WITHHOLDING OF WAGES IN 2019 DUE TO APPLICATION OF PAYMENTS TO ONGOING WAGE DEBT**

5.18 The Employer Defendants maintained a wage debt to Taber for the entire time Taber worked for CDI in 2019. As a result of the Employer Defendants' choice to maintain an ongoing debt to Taber, each of CDI's payments to Taber in 2019 is applied to the prior debt pursuant to the doctrine of application of payments. Because payments were applied to the past

1 wage debt, those payments did not cover the full amount of wages due on the date of the  
2 payment.

3 5.19 As a result of the Employer Defendants' failure to pay 2019 wages on payday,  
4  
5 Taber suffered the following damages and seeks the following award and remedies:

- 6 (1) \$0 of the eventually paid \$15,646 late wage payments;  
7  
8 (2) \$31,292 in double liquidated damages pursuant to SMC 14.20.090;  
9  
10 (3) \$31,292 in double punitive damages pursuant to RCW 49.48.050 and RCW  
11 49.48.070; and,  
12  
13 (4) Interest on \$15,646 pursuant to SMC 14.20.090 at 12 percent per annum, or the  
14 maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.

15 **TENTH: FAILURE TO REIMBURSE PAID TIME OFF**

16 5.20 The Employer Defendants had a policy to offer paid time off and failed to pay  
17 Taber two days of accrued paid time off when Taber was terminated. Paid time off qualifies as  
18 a wage.

19 5.21 As a result of the Employer Defendants' failure to reimburse paid time off,  
20  
21 Taber suffered the following damages and seeks the following award and remedies:

- 22 (1) \$524 for unreimbursed two days of paid time off at \$262 per day;  
23  
24 (2) \$1,048 in double liquidated damages pursuant to SMC 14.20.090;  
25  
26 (3) \$1,048 in double punitive damages pursuant to RCW 49.48.050 and RCW  
27 49.48.070; and,  
28  
29 (4) Interest on \$524 pursuant to SMC 14.20.090 at 12 percent per annum, or the  
30 maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.

**ELEVENTH: EMOTIONAL DISTRESS CAUSED BY WILLFUL WAGE  
WITHHOLDING**

5.22 Pursuant to SMC 14.20.090, an employee denied wages may recover any legal or equitable relief, which includes emotional-distress damages. The Employer Defendants intentionally and recklessly withheld Taber's wages.

5.23 As a result of the Employer Defendants' willful withholding of wages and recklessly incompetent attempts to correct the withholding, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$100,000 in emotional distress pursuant to SMC 14.20.090.

**TWELFTH: FAILURE TO REIMBURSE INCOME TAX REFUND ON \$500  
REPORTED ON 2018 W-2**

5.24 The Employer Defendants overstated Taber's income by \$500 on an amended 2018 IRS form W2 that they issued to Taber.

5.25 As a result of the Employer Defendants' inaccurate accounting, Taber suffered the following damages and seeks the following award and remedies:

- (1) 2018 income tax on the \$500 overstatement of income, in an amount to be proven at trial; and,
- (2) Interest on the taxes awarded in an amount to be proven at trial pursuant to SMC 14.20.090 at "12 percent per annum, or the maximum rate permitted under RCW 19.52.020").

**THIRTEENTH: LOST TAX DEFERRED INTEREST ON IRA CONTRIBUTION LOST  
DUE TO 2018 INCOME INFLATION**

1           5.26    The Employer Defendants issued an incorrect IRS form W2 that overstated  
2           Taber's 2018 thereby causing Taber to lose the right to invest in an IRA. As a result, Taber lost  
3           future IRA interest.

4  
5           5.27    As a result of the Employer Defendants' inflation of Taber's income and the loss  
6           of the IRA interest, Taber suffered the following damages and seeks the following award and  
7           remedies:

8                   (1) \$660 in lost tax deferred interest on IRA contributions;

9                   (2) \$1,320 in double liquidated damages pursuant to SMC 14.20.090; and,  
10                   (3) \$1,320 in double punitive damages pursuant to RCW 49.48.050 and RCW

11                   49.48.070.  
12

13           **FOURTEENTH: DAMAGES RESULTING FROM HSA OVERCONTRIBUTIONS**

14           5.28    The Employer Defendants deposited \$6,300 of Taber's 2017 wage deductions  
15           into Taber's HSA thereby causing Taber to exceed the annual contribution limit.

16  
17           5.29    As a result of the Employer Defendants' overcontribution, Taber suffered the  
18           following damages and seeks the following award and remedies:

19                   (1) \$858 in increased taxes resulting from excessive HSA contributions; and,  
20                   (2) Interest on \$858 pursuant to SMC 14.20.090 at 12 percent per annum, or the

21                   maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.  
22

23           **FIFTEENTH: AN INJUNCTION TO REMEDY DEFENDANT'S WAGE-LAW**  
24                   **VIOLATIONS**

25           5.30    The Employer Defendants repeatedly egregiously violated Seattle and  
26           Washington State wage laws in their interactions with Taber. Taber requests injunctive relief  
27           pursuant to SMC 14.20.090 and RCW 49.46.100 to prevent future violations.  
28



1           5.31 As a result of the Employer Defendants' wage-law violations, Taber requests the  
2 following injunction requiring the CDI to do the following:

- 3           (1) Prominently post notice on CDI's property where CDI's employees will see the post  
4               a detailed description of CDI's violations described above,  
5  
6           (2) Provide written notice to each of CDI's employees for a period of time determined  
7               by the Court that details CDI's violations described above,  
8  
9           (3) Provide mandatory advanced professional training on city, state, and federal wage  
10               laws to CDI's management in its human-resources and finance departments;  
11  
12           (4) Provide mandatory advanced professional training on city, state and federal HSA  
13               laws to CDI's management in its human-resources and finance departments;  
14  
15           (5) Provide mandatory non-management training on city, state and federal wage rights  
16               to CDI's non-management employees in its human resources and finance  
17               departments;  
18  
19           (6) Provide mandatory non-management training on city, state and federal HSA law to  
20               CDI's non-management employees in its human resources and finance departments;  
21  
22           (7) Prominently post notice a copy of the injunction that this court enters on CDI's  
23               property where CDI's employees will see the post;  
24  
25           (8) Mail by certified mail a copy of the injunction to (a) the City of Seattle Office of  
26               Labor Standards, (b) the Washington State Department of Labor, and (c) the US  
27               Department of Labor; and,  
28  
          (9) File with the Court proof of the mailing described above, including a date stamped  
             copy of the certified mail receipt.

**SIXTEENTH: ATTORNEY FEES AND COSTS FOR WAGE-WITHHOLDING CLAIMS**

5.32 City and state law provide for attorney fees and costs to employees who prevail in claims for wages.

5.33 As a result of the Employer Defendants' wage-law violations, Taber suffered the following damages and seeks the following award and remedies:

(1) Attorney fees pursuant to SMC 14.20.090, RCW 4.84.010, RCW 4.84.080, RCW 4.84.090, RCW 49.46.090, RCW 49.48.030, RCW 49.52.050, and RCW 49.52.070 in an amount that will be proven at trial; and,

(2) Costs pursuant to SMC 14.20.090, RCW 4.84.010, RCW 4.84.080, RCW 4.84.090, RCW 49.46.090, RCW 49.48.030, RCW 49.52.050, and RCW 49.52.070 in an amount that will be proven at trial.

**SEVENTEENTH: WRONGFUL WITHHOLDING OF SEVERANCE PAY IN RETALIATION FOR MAKING WAGE CLAIM**

5.34 The Employer Defendants retaliated against Taber in violation of SMC 14.20.090, RCW 49.46.100(2), RCW 49.58.010, 49.58.040, 49.58.050, 49.58.070, 49.58.080, and 29 U.S.C § 215(a)(3). The Employer Defendants refused to give Taber severance pay that the Employer Defendants gave to other employees unless Taber abandoned her right to earned wages and her right to sue for the violations described in the Complaint. The Employer Defendants knew or should have known after a reasonable investigation that CDI owed Taber wages and that CDI had repeatedly egregiously violated Taber's wage rights. CDI retaliated by forcing Taber to pay consideration for the severance agreement that far exceeded that paid by other CDI employees.

1           5.35 As a result of the Employer Defendants' retaliatory withholding of severance  
2 pay, Taber suffered the following damages and seeks the following award and remedies:

- 3           (1) \$9,183 Severance payment owed to Taber;  
4  
5           (2) \$18,366 in double liquidated damages pursuant to SMC 14.20.090;  
6  
7           (3) \$18,366 in double punitive damages pursuant to RCW 49.48.050 and RCW  
8           49.48.070; and,  
9  
10          (4) \$5,000 in statutory penalties pursuant to SMC 14.20.90  
11          (5) Interest on \$9,182.68 pursuant to SMC 14.20.090 at 12 percent per annum, or the  
12          maximum rate permitted under RCW 19.52.020, in an amount to be proven at trial.

13           **EIGHTEENTH: WRONGFUL DISCHARGE IN RETALIATION FOR MAKING**  
14           **WAGE CLAIM**

15           5.36 The Employer Defendants retaliated against Taber in violation of SMC  
16 14.20.090, RCW 49.46.100(2), 29 U.S.C § 215(a)(3), and 29 U.S.C. § 216(b) by wrongfully  
17 terminating Taber in retaliation for making a wage clam.

18           5.37 As a result of the Employer Defendants' wrongful and retaliatory discharge,  
19 Taber suffered the following damages and seeks the following award and remedies:

- 20           (1) Lost past wages of \$3,673.07 every two weeks from July 17, 2019 until entry of  
21           judgment in this case, in an amount to be proven at trial;  
22  
23           (2) Interest at 12 percent per year on lost past wages pursuant to SMC 14.20.090,  
24           RCW 19.52.020, 29 U.S.C § 215(a)(3), and 29 U.S.C. § 216(b) in an amount to be  
25           proven at trial;  
26  
27           (3) Lost future wages at \$3,673.07 every two weeks, in an amount to be proven at trial;  
28           (4) Lost past health insurance coverage, in an amount to be proven at trial;

- (5) Future health insurance coverage, in an amount to be proven at trial;
- (6) Other past lost benefits, in an amount to be proven at trial;
- (7) Other future lost benefits, in an amount to be proven at trial;
- (8) Lost earning capacity due to Taber's unemployment, in an amount to be proven at trial; and,
- (9) Double liquidated damages for lost past and future wages pursuant to SMC 14.20.090 and 29 U.S.C. § 216(b).
- (10) Consequential damages pursuant to SMC 14.20.090, in an amount that will be proven at trial; and,
- (11) \$5,000 in statutory penalties pursuant to SMC 14.20.90.

**NINETEENTH: EMOTIONAL DISTRESS CAUSED BY RETALIATORY DENIAL OF SEVERANCE PAYMENT AND REALIATORY DISCHARGE**

5.38 The Employer Defendants' retaliatory denial of severance pay and retaliatory termination caused emotional distress. Taber seeks emotional distress damages pursuant to SMC 14.20.090, 29 U.S.C § 215(a)(3), and 29 U.S.C. § 216(b).

5.39 As a result of the Employer Defendants' retaliatory denial of severance payment and discharge, Taber suffered the following damages and seeks the following award and remedies:

- (1) \$250,000 in emotional distress pursuant to SMC 14.20.090.

**TWENTIETH: AN INJUNCTION TO PREVENT FUTURE RETALIATION**

5.40 To prevent the Employer Defendants from engaging in unlawful retaliation in the future, Taber requests the same injunctive relief as is described above, pursuant to SMC 14.20.090, RCW 49.46.100, 29 U.S.C § 215(a)(3) and 29 U.S.C. § 216(b).

**TWENTY-FIRST: WRONGFUL DISCHARGE AND AGE AND GENDER DISCRIMINATION**

5.41 The Employer Defendants terminated Taber in part due to age and gender discrimination in violation of RCW Ch. 49.60. The termination also constitutes wrongful discharge in violation of public policy.

5.42 As a result of the Employer Defendants' discriminatory and wrongful termination, Taber was damaged in the same ways that she was damaged by the wrongful discharge in retaliation for making wage claim, described above.

**TWENTY-SECOND: ATTORNEY FEES AND COSTS FOR WRONGFUL AND RETALIATORY DENIAL OF SEVERANCE PAY**

5.43 As a result of the Employer Defendants' wrongful and retaliatory denial of severance pay, Taber suffered the following damages and seeks the following award and remedies:

- (1) Attorney fees pursuant to SMC 14.20.090, RCW 4.84.010, RCW 4.84.080, RCW 4.84.090, RCW 49.46.090, RCW 49.48.030, RCW 49.52.050, RCW 49.52.070, and RCW 49.60.030 in an amount that will be proven at trial; and,
- (2) Costs pursuant to SMC 14,20.090, RCW 4.84.010, RCW 4.84.080, RCW 4.84.090, RCW 49.46.090, RCW 49.48.030, RCW 49.52.050, RCW 49.52.070, and RCW 49.60.030 in an amount that will be proven at trial.

**TWENTY-THIRD: VIOLATIONS OF ERISA § 502(a)(1)(B)**

5.44 In the alternative to the claims set forth above, as a result of the Employer Defendants' wrongful conduct in this case, Taber alleges that the Employer Defendants have violated the Employee Retirement Income Security Program ("ERISA") and seeks an award of

1 damages and equitable relief for such violations of ERISA including damages pursuant to 29  
2 U.S.C. § 502(a)(1)(B).

3  
4 **TWENTY-FOURTH: BREACH OF CONTRACT**

5 5.45 The Employer Defendants' conduct constitutes breaches of contracts with Taber.

6 5.46 As a result of the Employer Defendants' breach of contracts, Taber suffered the  
7 following damages and seeks the following award and remedies:

8 (1) Contract damages including direct and consequential damages, in an amount to be  
9 proven at trial.

10  
11 **TWENTY-FIFTH: FAILURE TO PROVIDE TABER AND LT COBRA NOTICE**

12 5.47 CDI in its capacity as the Healthcare Plan administrator, CIGNA, and the  
13 Healthcare Plan (hereinafter the "**COBRA Defendants**") violated ERISA (including 29  
14 U.S.C.A. §§ 1104, 1132, & 1161-1166) and are liable to Taber and LT for failing to provide  
15 Taber and LT COBRA notice.

16  
17 5.48 As a result of the COBRA Defendants' failure to provide Taber and LT COBRA  
18 notice, Taber and LT suffered the following damages and seek the following award and  
19 remedies:

20 (1) Damages of \$110 a day for every day after the first day following the last date on  
21 which CDI was obligated to provide Taber COBRA notice until the present day;

22 (2) Entry of judgment and an order that the COBRA Defendants are equitably estopped  
23 from denying COBRA coverage for Taber;

24 (3) Entry of judgment and an order that the statutory election period has been tolled  
25 until sixty days after this Court enters judgment in the present matter;  
26  
27  
28

(4) Entry of judgment and an order that Taber is entitled to elect COBRA benefits for any length of time after her termination, and entry of judgment and an order that the COBRA Defendants shall pay and indemnify Taber for all costs covered under the Healthcare Plan for the period of coverage Taber elects; and,

(5) Entry of judgment and an order that the COBRA Defendants shall pay Taber's attorney fees and costs pursuant to state and federal law including 29 U.S.C.A. §§ 1132(c)(1) & 1132(g)(1).

**TWENTY-SIXTH: BREACH OF FIDUCIARY DUTY FOR FAILURE TO PROVIDE COBRA NOTICE**

5.49 The COBRA Defendants breached their fiduciary duty under ERISA by failing to provide Taber and LT COBRA notice and failing to provide insurance.

5.50 As a result of the COBRA Defendants' breach of their fiduciary duties, Taber and LT suffered the following damages and seek the following award and remedies:

- (1) Entry of judgment and an order that the COBRA Defendants are equitably estopped from denying COBRA coverage for Taber and LT;
- (2) Entry of judgment and an order that the statutory election period has been tolled until sixty days after this Court enters judgment in the present matter;
- (3) Entry of judgment and an order that Taber and LT are entitled to elect COBRA benefits for any length of time after her termination, and entry of judgment and an order that the COBRA Defendants shall pay and indemnify Taber and LT for all costs covered under the Healthcare Plan for the period of coverage Taber elects for herself and LT; and,

(4) Entry of judgment and an order that the COBRA Defendants shall pay Taber's and LT's attorney fees and costs pursuant to state and federal law including 29 U.S.C.A. §§ 1132(c)(1) & 1132(g)(1).

**TWENTY-SEVENTH: VIOLATIONS OF THE WASHINGTON STATE CONSUMER PROTECTION ACT FOR FAILURE TO PROVIDE COBRA NOTICE**

5.51 The COBRA Defendants violated the Washington State Consumer Protection Act (the "CPA"), RCW Ch. 19.86 by denying COBRA notice.

5.52 As a result of the COBRA Defendants' violations the CPA, Taber and LT suffered the following damages and seek the following award and remedies:

- (1) Entry of judgment and an order that the COBRA Defendants shall pay treble damages under the Washington Consumer Protection Act, RCW 19.86.090; and,
- (2) Entry of judgment and an order that the COBRA Defendants shall pay Taber's and LT's attorney fees and costs pursuant to state and federal law including 29 U.S.C.A. §§ 1132(c)(1) & 1132(g)(1) and RCW 19.86.090.

**TWENTY-EIGHTH: NEGLIGENT FAILURE TO PROVIDE COBRA NOTICE**

5.53 The COBRA Defendants were negligent in failing to provide Taber and LT COBRA notice.

5.54 As a result of the COBRA Defendants' violations the CPA, Taber and LT suffered the following damages and seek the following award and remedies:

- (1) Medical expenses; and,
- (2) Additional damages to be proven at trial.

**TWENTY-NINTH: BREACH OF HEALTHCARE PLAN CONTRACT**



1           5.55    The COBRA Defendants breached the terms of the Healthcare Plan and  
2 breached the employment contract with Taber by failing to provide Taber and LT COBRA  
3 notice.  
4

5           5.56    As a result of the COBRA Defendants' violations the CPA, Taber and LT  
6 suffered the following damages and seek the following award and remedies:

- 7           (1) Medical expenses; and,  
8  
9           (2) Additional damages to be proven at trial.

10           **THIRTIETH: EQUITABLE ESTOPPEL REGARDING COBRA COVERAGE**

11           5.57    The COBRA Defendants must be equitably estopped from denying COBRA  
12 coverage due to their failure to provide Taber and LT COBRA notice.

13           5.58    As a result of the COBRA Defendants' violations the CPA, Taber and LT  
14 suffered the following damages and seek the following award and remedies:

- 15           (1) Medical expenses; and,  
16  
17           (2) Additional damages to be proven at trial.

18           **THIRTY-FIRST: FRAUD, CONSTRUCTIVE FRAUD, NEGLIGENT**  
19           **MISREPRESENTATION REGARDING FAILURE TO PROVIDE COBRA**  
20           **NOTICE**

21           5.59    The COBRA Defendants committed fraud, constructive fraud, and/or negligent  
22 misrepresentation under Washington common law by failing to provide Taber COBRA notice.

23           5.60    As a result of the COBRA Defendants' violations the CPA, Taber and LT  
24 suffered the following damages and seek the following award and remedies:

- 25           (1) Medical expenses; and,  
26  
27           (2) Additional damages to be proven at trial.

28           **THIRTY-SECOND: EQUITABLE RELIEF**

1           5.61    Taber requests additional equitable relief that the Court deems appropriate.

2                           **THIRTY-THIRD: TAX GROSS UP**

3           5.62    Taber requests a *Blaney* tax up pursuant to *Blaney v. International Association*  
4 *of Aero. Workers*, in an amount proven at trial.

5                           **THIRTY-FOURTH: INTEREST**

6           5.63    Taber requests prejudgment and post judgement interest at the statutory rate

7                           **JOINT AND SEVERAL LIABILITY**

8           5.64    Taber requests that judgment be entered against the Employer Defendants  
9 jointly and severally on all claims brought against them other than COBRA-related claims.  
10 Taber requests that judgment be entered against the COBRA Defendants jointly and severally  
11  
12 on all claims brought against them other than non-COBRA-related claim.  
13

14                           **VI.     RELIEF REQUESTED**

15           Plaintiff asks the Court to grant all damages and equitable relief requested in this  
16 complaint, all damages awardable pursuant to the claims listed above, and all damages and  
17 equitable relief awardable for the Defendants' conduct set forth in this complaint.

18           EXECUTED at Issaquah, Washington this November 11, 2021.

19  
20  
21                           \_\_\_\_\_  
22                           John G. Barton, WSBA No. 25323  
23                           Attorney for Plaintiffs  
24                           1567 Highlands Dr NE Ste 110-34  
25                           Issaquah, WA 98029-6245  
26                           (425) 243-7960  
27                           TheBartonLawFirm@GMail.com  
28

5.61 Taber requests additional equitable relief that the Court deems appropriate.

**THIRTY-THIRD: TAX GROSS UP**

5.62 Taber requests a *Blaney* tax up pursuant to *Blaney v. International Association of Aero. Workers*, in an amount proven at trial.

**THIRTY-FOURTH: INTEREST**

5.63 Taber requests prejudgment and post judgement interest at the statutory rate

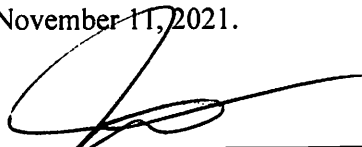
**JOINT AND SEVERAL LIABILITY**

5.64 Taber requests that judgment be entered against the Employer Defendants jointly and severally on all claims brought against them other than COBRA-related claims. Taber requests that judgment be entered against the COBRA Defendants jointly and severally on all claims brought against them other than non-COBRA-related claim.

**VI. RELIEF REQUESTED**

Plaintiff asks the Court to grant all damages and equitable relief requested in this complaint, all damages awardable pursuant to the claims listed above, and all damages and equitable relief awardable for the Defendants' conduct set forth in this complaint.

EXECUTED at Issaquah, Washington this November 11, 2021.



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